Mayor
Aaron Brockett

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
March 6, 2025
6:00 PM

City Manager
Nuria Rivera-Vandermyde

City Attorney
Teresa Taylor Tate

City Clerk
Elesha Johnson

AGENDA FOR THE REGULAR MEETING OF THE BOULDER CITY COUNCIL

1. **Call to Order and Roll Call**
2. **Open Comment**
3. **Consent Agenda**
   - A. **Consideration of a motion to accept the January 9, 2025 Special City Council Meeting Minutes**
   - B. **Consideration of a motion to accept the January 16, 2025 Regular City Council Meeting Minutes**
   - C. **Consideration of a motion to accept the February 13, 2025 Study Session Summary regarding City of Boulder Homelessness Programs Evaluation and High Utilizer Initiative Update**
   - D. **Introduction, first reading, and consideration of a motion to order published by title only Ordinance 8688 granting a Franchise by the City of Boulder, Colorado, to ALLO Communications LLC, its successors and assigns, pursuant to Chapter 6, "Boulder Cable Code," B.R.C.1981, and ALLO Communications LLC's franchise application, to furnish cable television services within the identified franchise areas of the city and to all persons, businesses, and industries within the franchise areas and the right to acquire, construct, install, locate, maintain, operate and extend into, within and through said franchise areas of the city all facilities reasonably necessary to furnish cable television services within the franchise areas of the city and the right to make reasonable use of all streets and other public places and public easements as herein defined as may be necessary for the benefit of the city of Boulder; and fixing the terms and conditions thereof; and setting forth related details**
   - E. **Introduction, first reading, consideration of a motion to order published by title only and adopt by emergency measure Ordinance**

8690 authorizing the issuance by the City of Boulder, Colorado, acting through its Stormwater and Flood Management Utility Enterprise, of its Stormwater and Flood Management Revenue Bonds, Series 2025 for the purpose of providing funds to acquire, construct, improve and equip various stormwater and flood mitigation improvements for the first phase of the South Boulder Creek flood mitigation project, including the acquisition of ownership and easement interests in land necessary for such improvements; establishing a reserve fund; prescribing the form of the Series 2025 Bonds; setting forth parameters and restrictions with respect to the Series 2025 Bonds; authorizing a competitive sale of the 2025 Bonds in an aggregate principal amount of not to exceed $66,000,000; providing for the payment and redemption of the Series 2025 Bonds from and out of the stormwater and flood management fee; providing other details and approving other documents in connection with the Series 2025 Bonds; authorizing city officials to take all action necessary to carry out the transactions contemplated hereby; ratifying actions previously taken; and declaring an emergency and providing the effective date hereof; and setting forth related details

F. Introduction, first reading, and consideration of a motion to order published by title only and adopt by emergency measure Ordinance 8689 relating to the financial affairs of the City of Boulder, Colorado, making supplemental appropriations for the fiscal year ending December 31, 2025; and setting forth related details

4. Call-Up Check-In

A. Consideration of Left Hand Water District's request for comment regarding a water tap for a property in Area III of the Boulder Valley Comprehensive Plan (4473 N 51st Street)

5. Public Hearings

A. Second reading and consideration of a motion to adopt Ordinance 8651, amending Title 1, "General Administration," Title 4, "Licenses and Permits," Title 5, "General Offices," Title 9, "Land Use Code," and Title 10, "Structures," B.R.C. 1981, to update residential occupancy standards to ensure conformance with Colorado House Bill 24-1007, "Concerning Residential Occupancy Limits," and setting forth related details — *60 min - 20 min presentat / 40 min council discussio*

6. Matters from the City Manager

7. Matters from the City Attorney

8. Matters from the Mayor and Members of Council

A. "Nod of three" to proceed with additional research regarding incentives/programs for housing ownership — *15 min*

9. Discussion Items

10. Debrief

11. Adjournment

2:15 hrs

Additional Materials

Presentations

Item Updates

Information Items

A. Update on City Participation at the Public Utilities Commission

B. 2024 Annual Prairie Dog Update and 2025 Management Plans

Boards and Commissions

A. 11.18.24 WRAB Signed Minutes

Declarations

Heads Up! Email

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.

Boulder 8 TV (Comcast channels 8 and 880) is now providing closed captioning for all live meetings that are aired on the channels. The closed captioning service operates in the same manner as similar services offered by broadcast channels, allowing viewers to turn the closed captioning on or off with the television remote control. Closed captioning also is available on the live HD stream on **BoulderChannel8.com.** To activate the captioning service for the live stream, the "CC" button (which is located at the bottom of the video player) will be illuminated and available whenever the channel is providing captioning services.

The council chambers is equipped with a T-Coil assisted listening loop and portable assisted listening devices. Individuals with hearing or speech loss may contact us using Relay Colorado at 711 or 1-800-659-3656.

Anyone requiring special packet preparation such as Braille, large print, or tape recorded versions may contact the City Clerk's Office at 303-441-4222, 8 a.m. - 5 p.m. Monday through Friday. Please request special packet preparation no later than 48 hours prior to the meeting.

If you need Spanish interpretation or other language-related assistance for this meeting, please call (303) 441-1905 at least three business days prior to the meeting. Si usted necesita interpretacion o cualquier otra ayuda con relacion al idioma para esta junta, por favor comuniquese al (303) 441-1905 por lo menos 3 negocios dias antes de la junta.

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

COVER SHEET

MEETING DATE
March 6, 2025

AGENDA ITEM
Consideration of a motion to accept the January 9, 2025 Special City Council Meeting Minutes

PRIMARY STAFF CONTACT
Elesha Johnson, City Clerk

REQUESTED ACTION OR MOTION LANGUAGE
Motion to accept the January 9, 2025 Special City Council Meeting Minutes

ATTACHMENTS:

Description

- **DRAFT January 9, 2025 City Council Meeting Minutes**

CITY COUNCIL SPECIAL MEETING

Virtual Via Zoom

Thursday, January 9, 2025

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, Speer, Wallach, Winer

Motion	Made By/Seconded	Vote
Motion to **AMEND** the agenda to **ADD:** • **Item 2G – Consideration of a motion to approve changing City Council meetings on January 16th and February 6th from in-person to virtual pursuant to B.R.C. section 2-1-2 which provides that the council may exclude or limit the public from in-person attendance when, such as here, a public health or safety concern exists** **REMOVE:** • **Item 3A – Second reading and consideration of a motion to adopt Ordinance 8677 designating the property at 3168 6th St., City of Boulder, Colorado, to be known as the Leach-Moritz House, as an**	Marquis / Winer	Carried 7:2 **NAY's: Benjamin and Adams**

individual landmark under Chapter 9-11, "Historic Preservation," B.R.C. 1981; and setting forth related details (QJ) – Item withdrawn by applicant.		

A. **Martin Luther King Jr. Day Declaration** presented by Council Member Adams

2. Consent Agenda

A. Consideration of a motion to **accept the December 12 Study Session Summary regarding Vision Zero Action Plan: Signal Practices**

B. **Introduction,** first reading, and consideration of a motion to **order published by title only Ordinance 8650,** amending Title 9, **"Land Use Code,"** B.R.C. 1981, **to amend the regulations for accessory dwelling units,** and setting forth related details

C. **Introduction,** first reading, and consideration of a motion to **order published by title only Ordinance 8682 amending** Section 3-5-3, **"Qualifications for Tax Refund,"** B.R.C. 1981, **providing the city manager with authority to designate the place and period of time for claim submittal;** and setting forth related details

D. **Introduction,** first reading, and consideration of a motion to **order published by title only Ordinance 8683 establishing the Boulder Lodging Business Assessment Area** pursuant to Chapter 8-11, "Lodging Business Assessment Areas," B.R.C. 1981; and setting forth related details

E. **Second reading** and consideration of a motion to **adopt Ordinance 8678 repealing and reenacting Section 7-4-78, "Misuse of a Wireless Telephone,"** B.R.C. 1981, **to align the use of mobile electronic devices while driving a motor vehicle within city of boulder boundaries with state law;** and setting forth related details

F. **Continued from 12/19/2024**
Second reading and consideration of a motion to **adopt as an emergency measure Ordinance 8665, amending Title 9**, **"Land Use Code**," B.R.C. 1981, **to implement Senate Bill 23-290 and locally permit and regulate natural medicine businesses, defined in the state bill as Natural Medicine Healing Centers and Cultivation, Production, and Testing Facilities, and setting forth related details**

G. **ADDED:** Consideration of a motion to **approve changing City Council meetings on January 16th and February 6th from in-person to virtual** pursuant to B.R.C. section 2-1-2 which provides that the council may exclude or limit the public from in-person attendance when, such as here, a public health or safety concern exists

Motion	Made By/Seconded	Vote
Motion to **APPROVE consent agenda items A-G**	Speer / Wallach	Carried 9:0 **NAY on 2F: Marquis** **NAY on 2G: Benjamin and Folkerts**

3. Public Hearings

A. **REMOVED:** ~~Second reading and consideration of a motion to adopt Ordinance 8677 designating the property at 3168 6th St., City of Boulder, Colorado, to be known as the Leach-Moritz House, as an individual landmark under Chapter 9-11, "Historic Preservation," B.R.C. 1981; and setting forth related details~~

B. **Second reading** and consideration of a motion to **adopt Ordinance 8680 designating the property at 575 Euclid Ave., City of Boulder, Colorado, to be known as the Sirotkin House, as an individual landmark** under Chapter 9-11, "Historic Preservation," B.R.C. 1981; and setting forth related details

Marcy Gerwing, Historic Preservation Planner, provided a presentation and answered questions from Council.

The applicant and owner both spoke in support of the designation.

The public hearing **opened** at 6:30 p.m. and the following spoke:

- **Virtual**:

1. Leonard Segel
2. ~~Cosima Krueger-Cunningham~~ - ***did not show***
3. Lynn Segal
4. Daniel Howard

The public hearing **closed** at 6:36 p.m.

Motion	Made By/Seconded	Vote
Motion to **adopt Ordinance 8680 designating the property at 575 Euclid Ave., City of Boulder, Colorado, to be known as the Sirotkin House, as an individual landmark**	Folkerts / Winer	Adopted 9:0

under Chapter 9-11, "Historic Preservation," B.R.C. 1981; and setting forth related details		

C. **Second reading** and consideration of a motion to **adopt Ordinance 8666,** amending Chapters 9-2, **"Review Processes,"** 9-6, **"Use Standards,"** and 9-8, **"Intensity Standards"** of Title 9, **"Land Use Code,"** B.R.C. 1981, **to amend density and intensity standards to allow development of additional dwelling units in the Residential – Rural 1 (RR-1), Residential – Rural 2 (RR-2), Residential – Low 1 (RL-1), Residential – Medium 1 (RM-1), and Residential Mixed – 1 (RMX-1) zoning districts** and to amend review procedures and use standards to reduce regulatory requirements for certain residential developments, and setting forth related details

Karl Guiler, Senior Policy Advisor, provided a presentation and answered questions from Council.

Marcy Gerwing, Historic Preservation Planner and Brad Mueller, Planning and Development Services Director, answered questions from Council.

The public hearing **opened** at 7:46 p.m. and the following spoke:

- **Virtual**:

1. Rishi Raj
2. Kimman Harmon
3. ~~Emily Reynolds~~ – ***moved to speaker number 9 due to technical issues***
4. Brian Keegan
5. Oliver Dickhausen
6. Elaine Dannemiller
7. Valerie Stoyva
8. Alex Radz
9. ~~Mary Maxwell~~ - ***did not show***
10. Emily Reynolds
11. Jyotsna Raj
12. Eric Budd
13. Lisa Sweeney-Miran
14. Jan Trussell
15. Evan Ravitz
16. Evan Freirich
17. ~~Cosima Krueger-Cunningham~~ - ***did not show***
18. Laura Osborn
19. ~~Deanne Fujii~~ - ***did not show***

20. Lynn Segal
21. Henry Koren
22. Margaret LeCompte
23. ~~Michael Broder~~ - ***did not speak due to technical issues***
24. ~~Diane Connolly~~ - ***did not show***
25. Rosie Fivian
26. Daniel Howard
27. Claudia Thiem
28. Chelsea Castellano
29. Michael Mills
30. Macon Cowles
31. Scott McCarey
32. Nick Aguilera
33. David Ensign
34. ~~David Adamson~~ - ***did not show***
35. ~~Stephanie Adamson~~ - ***did not show***

The public hearing **closed** at 8:44 p.m.

Hella Pannewig, Senior Counsel, answered questions from Council.

Motion	Made By/Seconded	Vote
Motion to amend and approve Ordinance 8666, amending Chapters 9-2, **"Review Processes,"** 9-6, **"Use Standards,"** and 9-8, **"Intensity Standards"** of Title 9, **"Land Use Code,"** B.R.C. 1981, **to amend density and intensity standards to allow development of additional dwelling units in the Residential – Rural 1 (RR-1), Residential – Rural 2 (RR-2), Residential – Low 1 (RL-1), Residential – Medium 1 (RM-1), and Residential Mixed – 1 (RMX-1) zoning districts** and to amend review procedures and use standards to reduce regulatory requirements for certain residential developments, and setting forth related details	Folkerts / Brockett	Amended and Approved 6:3 **NAYS: Marquis, Wallach and Winer** Will be scheduled for a 3rd Reading

4. Matters from the City Manager

A. Municipal Court Update

Jeffrey Cahn, Presiding Municipal Court Judge, provided a presentation and answered questions from Council.

5. Discussion Items

6. Debrief

7. 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 10:07 p.m.**

Approved this 6th day of March 2025.

APPROVED BY:

_____
Aaron Brockett, Mayor

ATTEST:

_____
Elesha Johnson, City Clerk

COVER SHEET

MEETING DATE
March 6, 2025

AGENDA ITEM
Consideration of a motion to accept the January 16, 2025 Regular City Council Meeting Minutes

PRIMARY STAFF CONTACT
Elesha Johnson, City Clerk

REQUESTED ACTION OR MOTION LANGUAGE
Motion to accept the January 16, 2025 Regular City Council Meeting Minutes

ATTACHMENTS:

Description

- **Item 3B - January 16, 2025 City Council meeting minutes**

CITY COUNCIL MEETING

Virtual Via Zoom

Thursday, January 16, 2025

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, Speer (joined the meeting at 7:18 p.m.), Wallach, Winer

Motion	Made By/Seconded	Vote
Motion to **AMEND** the agenda to **ADD:** • **Item 3F – Consideration of a motion to amend the Council Rules of Procedure Sec. IV. Council Meeting Agenda**	Wallach / Winer	Carried 8:0

A. **National Day of Racial Healing Declaration** presented by Mayor Pro Tem Folkerts

B. **International Holocaust Remembrance Day Declaration** presented by Council Member Marquis

C. **Declaration Condemning Antisemitism** 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 6:22 p.m.

- **Virtual:**

1. Mark Rushton spoke on wood fence improvement between Greenbriar to Darley
2. Maya Bajayo spoke on staying united
3. Rob Smoke spoke on council meeting procedure
4. Roman Movshovich spoke on declaration condemning antisemitism
5. ~~Martha McPherson spoke on budget~~ ***moved to speaker 17***
6. Miche Bacher spoke on antisemitism and bias in our community
7. Jerry Pinsker spoke on support of the Resolution condemning antisemitism
8. David Kaplan spoke on positive support re International Holocaust Remembrance Day Declaration
9. Susan Hall spoke on liberty and justice for all
10. Laura Gonzalez spoke on city violations of domestic and international law
11. Josh Scholossberg spoke on antisemitism
12. Will Freeman spoke on license plate readers in Boulder
13. Ram Orenstein spoke on International Holocaust Remembrance Day
14. James Duncan spoke on COZID pandemic
15. Michele Rodriguez spoke on general
16. Daniel Markofsky spoke on International Holocaust Remembrance Day Declaration
17. Linda (Martha Mcpherson) spoke on Gaza
18. ~~Martin Claus spoke on Oct 7th: How can we accept this as civilized behavior~~ ***did not show***
19. Tal Diamant spoke on Holocaust Remembrance Day and Antisemitism
20. Eldad Malka spoke on thanking Council for acknowledging the international holocaust memorial
21. Padi Fuster Aguilera spoke on open comment rules and freedom of speech

Open Comment **closed** at 7:10 p.m.

3. Consent Agenda

A. Consideration of a motion to accept the **November 7, 2024 Regular City Council Meeting Minutes**

B. Consideration of a motion to accept the **November 14, 2024 Special City Council Meeting Minutes**

C. Consideration of a motion to accept the **November 21, 2024 Regular City Council Meeting Minutes**

D. Consideration of a motion to accept the **December 12, 2024 Study Session Summary regarding Wildfire Hardening and Waterwise Landscaping Policies and Regulation Updates**

E. **Introduction,** first reading and consideration of a motion to order published by title only **Ordinance 8681 approving the renewal of a Cable Franchise Agreement with Comcast of Colorado IX, LLC** for the period May 1, 2025 through and including April 30, 2035; and setting forth related details

F. **ADDED: Consideration of a motion to amend the Council Rules of Procedure Sec. IV**. Council Meeting Agenda

Motion	Made By/Seconded	Vote
Motion to **PASS the consent agenda items A-F**	Benjamin / Wallach	Approved 8:0

4. Call-Up Check-In

A. Site Review approval for redevelopment of the site at 5675 Arapahoe Ave. in the IG zone district with two new life sciences buildings totaling approximately 206,978 square feet in size. Includes a request for a 19% parking reduction to allow for 420 spaces where 518 are required. **Reviewed under case no. LUR2023-00036.**

A motion was made by CM Wallach to call this item up and was seconded by CM Adams. Motion was **DEFEATED 2:7**

NO ACTION

5. Public Hearings

A. **Site Review Amendment for an approximately 55-foot-tall structure with 50,069 square-feet of floor area** with a first-floor meeting space, mechanical mezzanine, and upper-level hotel rooms connected **to the existing St. Julien Hotel at 900 Walnut Street. Reviewed under case no. LUR2023-00046**.

Shannon Moeller, Planning Manager, provided a presentation and answered questions from Council.

Matt Cecere, the applicant and Principal Architect at 4240 Architecture, provided a presentation and answered questions from Council.

The public hearing **opened** at 8:38 p.m. and the following spoke:

- **Virtual**:

1. Peter Neale
2. Stan Garnett – ***pooling with #5 Hubert & # 27 Sidney – 4 min***
3. John Dietzler
4. Daniel Dietzler
5. ~~Hubert Farbes~~ – ***pooling with #2 Stan***
6. Pete Dordick
7. Michael Houlihan
8. Dennis Johanningmeier
9. Michael Bittner
10. Craig Maughan
11. Liz Hanson
12. David Biek
13. Tom Chenault
14. Judy Godec
15. Matt Moseley
16. Catherine Gassman
17. Leslie Durgin
18. Amelia Moseley
19. Joseph Cleghorn
20. Jim Martin
21. George Karakehian
22. Doyle Albee
23. Scott Dale
24. Laura Kaplan
25. Patricia Dietzler
26. Eric Budd
27. ~~Sidney Tikalsky~~ – ***pooling with #2 Stan***
28. Aldo Valdes
29. Francesco Pasta
30. Kari Whitman
31. Jason Vieth
32. Lynn Segal
33. Evan Ravitz
34. Bella Thompson

35. Erik Osborn
36. Lee Woods

The public hearing **closed** at 9:52 p.m.

Motion	Made By/Seconded	Vote
Motion to approve a **site Review Amendment for an approximately 55-foot tall structure with 50,069 square-feet of floor area** with a first-floor meeting space, mechanical mezzanine, and upper-level hotel rooms connected **to the existing St. Julien Hotel at 900 Walnut Street. Reviewed under case no. LUR2023-00046** Included the following amendments: • Add and strengthen the Planning Board amendment around the pedestrian crossing enhancement to include potentially widening or creating a raised walkway to increase pedestrian safety there. • Amend the roof deck requirement to make the roof deck accessible to all civic users with no increase in rental rates.	Folkerts / Benjamin	Amended and Approved 6:3 **NAYS: Adams, Wallach, and Winer**

6. Matters from the City Manager

A. **Council Meeting Management Discussion**

Mayor Brockett proposed to the Council that he send a request to CAC to schedule an Executive Session to obtain legal advice on this item. He will request it be scheduled within the next 2 weeks. The council agreed unanimously.

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 Brockett at 10:18 p.m.**

Approved this 6th day of March 2025.

APPROVED BY:

_____
Aaron Brockett, Mayor

ATTEST:

_____
Elesha Johnson, City Clerk

COVER SHEET

MEETING DATE
March 6, 2025

AGENDA ITEM
Consideration of a motion to accept the February 13, 2025 Study Session Summary regarding City of Boulder Homelessness Programs Evaluation and High Utilizer Initiative Update

PRIMARY STAFF CONTACT
Megan Newton/Policy Advisor

REQUESTED ACTION OR MOTION LANGUAGE
Motion to accept the February 13, 2025 Study Session Summary regarding City of Boulder Homelessness Programs Evaluation and High Utilizer Initiative Update

ATTACHMENTS:

Description

- **Item 3C - Consideration of a motion to accept the February 13, 2025 Study Session Summary regarding City of Boulder Homelessness Programs Evaluation and High Utilizer Initiative Update**

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: March 06, 2025

AGENDA TITLE

Consideration of a motion to accept the February 13, 2025 Study Session Summary regarding City of Boulder Homelessness Programs Evaluation and High Utilizer Initiative Update.

PRESENTER(S)

Nuria Rivera-Vandermyde, City Manager
Mark Woulf, Assistant City Manager
Kurt Firnhaber, Housing and Human Services Director
Carl Castillo, Chief Policy Advisor
Vicki Ebner, Operations and Homelessness Strategy Senior Manager
Megan Newton, Homelessness Policy Advisor
Nicolia Eldred-Skemp, Principal Data Strategy Analyst
Lynette Badasarian, Homelessness Program Manager

EXECUTIVE SUMMARY

This agenda item provides a summary of the Feb. 13 study session on the homelessness services evaluation and high utilizer initiative update. The purpose of this item was for council to ask questions and provide input on areas of recommendation from the homelessness systems evaluation as well as input regarding the plan to update the homelessness strategy.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to accept the February 13, 2025 Study Session Summary regarding City of Boulder Homelessness Programs Evaluation and High Utilizer Initiative Update.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- **Economic** – Homelessness is associated with multiple economic impacts. First, homelessness is at its heart a housing issue, primarily caused by an individual's inability to access or maintain housing. Individuals experiencing homelessness are often faced with barriers that impact their ability to obtain and maintain gainful employment.

  In addition to economic impacts to the individuals experiencing homelessness, unsheltered homelessness can impact the business community. Community responses to homelessness can also be costly, affecting available resources needed for other community initiatives.

- **Environmental** – Homelessness, particularly unsheltered homelessness in or near waterways or areas that are environmentally vulnerable, disproportionately creates harmful levels of debris, water contamination, or other negative impacts.

- **Social** – While BIPOC people experiencing homelessness are overrepresented in the overall homeless community, they are also over-represented in homelessness exits. People experiencing homelessness are often over-represented in underserved communities including people of color, LGBTQ+, non-binary persons, older adults, and people dealing with disabling conditions.

OTHER IMPACTS

- **Fiscal** – Sustaining some of the programs and initiatives will require sustained financial commitment.
- **Staff time** –The Homelessness Policy Advisor continues to be the lead for adult homelessness responses and supervises the Homelessness Program Manager, who coordinates shelter and outreach work. The HHS Operations and Homelessness Strategy Senior Manager supports this work and also oversees the logistics of the Safe and Managed Public Spaces team. The Chief Policy Advisor leads the High Utilizer Leadership Team.

QUESTIONS TO COUNCIL

Study Session questions were:

- Does council have questions related to the overview and performance for 2024?
- Does council have questions or feedback on the areas of recommendation from the evaluation?
- Does council have questions or feedback regarding the Homelessness Strategy update plan?

BOARD AND COMMISSION FEEDBACK

None

PUBLIC FEEDBACK

This is a complex topic and engenders significant feedback from members of the community.

BACKGROUND

- Homelessness Services Evaluation and High Utilizer Initiative Update was provided on February 13, 2025.

ATTACHMENT(S)

Study Session Summary- Homelessness Services Evaluation and High Utilizer Initiative Update

ATTACHMENT A
Feb. 13, 2025 Study Session Summary
Homelessness Services Evaluation and High Utilizer Initiative Update

PRESENT
City Council: Mayor Aaron Brockett, Study Session Facilitator Ryan Schuchard, Nicole Speer, Taiysha Adams, Lauren Folkerts, Tina Marquis, Matt Benjamin, Mark Wallach, Tara Winer.

Staff: Nuria Rivera-Vandermyde, City Manager, Mark Woulf, Assistant City Manager, Kurt Firnhaber, Housing and Human Services Director, Carl Castillo, Chief Policy Advisor, Vicki Ebner, Operations and Homelessness Strategy Senior Manager, Megan Newton, Homelessness Policy Advisor, Nicolia Eldred-Skemp, Principal Data Strategy Analyst, Lynette Badasarian, Homelessness Program Manager

OVERVIEW
The study session provided council members with an update on data trends and programming, including the High Utilizer Initiative, an overview of findings from the completed evaluation of the homelessness response system, and an opportunity to offer feedback on the planning process for the homelessness strategy update.

SUMMARY OF PRESENTATION & DISCUSSION

Program/High Utilizer Updates

Megan Newton presented an overview of current programming, data trends, and program performance, highlighting the Day Services Center and Building Home.

Carl Castillo presented an overview of the updated High Utilizer proposal, which included engaging a contractor to support the development and implementation of a funding strategy. The revised proposal offers a scaled back approach designed to advance the program's impact while remaining responsive to current fiscal constraints.

Megan Newton, Kurt Firnhaber, and Elizabeth Crowe responded to questions about the information presented.

System Evaluation

Meg Chamberlin from Public Policy Associates presented the findings of the evaluation of the homelessness response system (HSBC).

Key findings highlighted:

- **Opportunities for Improvement:** Enhancing data systems to support informed decision-making, addressing equity disparities, expanding housing and support services, and strengthening crisis response efforts.
- **Recommendations:** Integrating data systems, prioritizing culturally competent and equitable services, expanding affordable housing options, fostering collaborative governance, and increasing community education to reduce stigma.

Meg Chamberlin and Kurt Firnhaber responded to questions and feedback about the information provided.

Homelessness Strategy Update

The city engaged Clutch Consulting to lead the update of its 2017 Homelessness Strategy, aiming to develop a forward-looking, systems-based plan that aligns city leadership and resources. The process will continue through the summer of 2025. Mandy Chapman Semple from Clutch Consulting provided an overview of the plan and timeline for the strategy update:

- **January:** Clutch began reviewing documents and collecting data to establish a foundation for the update.
- **February:** The focus shifts to a system modeling exercise that uses advanced predictive analytics to evaluate the impacts of system design, targeted investments, and program performance. These insights will help identify and prioritize strategies that maximize resource efficiency and impact. During this phase, Clutch will engage directly with service providers, community partners, and elected officials, leading a design workshop to explore adjustments needed to enhance outcomes.
- **April:** Clutch will deliver a draft framework that includes a renewed vision, guiding principles, goals, and strategies. Collaboration with city staff will help refine the plan, while a second round of community engagement—guided by system modeling—will shape implementation planning.
- **May:** Final drafts of the strategy will be completed, accompanied by the development of shared measurement tools and an evaluation framework to support ongoing assessment.

The process is scheduled to conclude by **July**, with an additional touchpoint anticipated in late Q2 for City Council to review the updated strategy.

Mandy Chapman Semple and Mark Woulf responded to questions and feedback provided.

NEXT STEPS

Clutch Consulting will continue work on updating the city's homelessness strategy with multiple touchpoints with council and community stakeholders to inform the work.

COVER SHEET

MEETING DATE
March 6, 2025

AGENDA ITEM

Introduction, first reading, and consideration of a motion to order published by title only Ordinance 8688 granting a Franchise by the City of Boulder, Colorado, to ALLO Communications LLC, its successors and assigns, pursuant to Chapter 6, "Boulder Cable Code," B.R.C.1981, and ALLO Communications LLC's franchise application, to furnish cable television services within the identified franchise areas of the city and to all persons, businesses, and industries within the franchise areas and the right to acquire, construct, install, locate, maintain, operate and extend into, within and through said franchise areas of the city all facilities reasonably necessary to furnish cable television services within the franchise areas of the city and the right to make reasonable use of all streets and other public places and public easements as herein defined as may be necessary for the benefit of the city of Boulder; and fixing the terms and conditions thereof; and setting forth related details

PRIMARY STAFF CONTACT

Carl Castillo, Intergovernmental Officer

REQUESTED ACTION OR MOTION LANGUAGE

Motion to order published by title only Ordinance 8688 granting a Franchise by the City of Boulder, Colorado, to ALLO Communications LLC, its successors and assigns, pursuant to Chapter 6, "Boulder Cable Code," B.R.C.1981, and ALLO Communications LLC's franchise application, to furnish cable television services within the identified franchise areas of the city and to all persons, businesses, and industries within the franchise areas and the right to acquire, construct, install, locate, maintain, operate and extend into, within and through said franchise areas of the city all facilities reasonably necessary to furnish cable television services within the franchise areas of the city and the right to make reasonable use of all streets and other public places and public easements as herein defined as may be necessary for the benefit of the city of Boulder; and fixing the terms and conditions thereof; and setting forth related details

ATTACHMENTS:

Description

- **Item 3D - 1st Rdg Ord 8688 approving the Cable Franchise Agreement with Allo Communications**

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: March 6, 2025

AGENDA TITLE

Introduction, first reading, and consideration of a motion to order published by title only Ordinance 8688 granting a franchise by the City of Boulder, Colorado, to ALLO Communications LLC, its successors and assigns, pursuant to Chapter 6, "Boulder Cable Code," B.R.C. 1981, and ALLO Communications LLC's franchise application, to furnish cable television services within the identified franchise areas of the city and to all persons, businesses, and industries within the franchise areas and the right to acquire, construct, install, locate, maintain, operate and extend into, within and through said franchise areas of the city all facilities reasonably necessary to furnish cable television services within the franchise areas of the city and the right to make reasonable use of all streets and other public places and public easements as herein defined as may be necessary for the benefit of the city of Boulder; and fixing the terms and conditions thereof; and setting forth related details

PRESENTERS

Nuria Rivera Vandermyde, City Manager
Chris Meschuk, Deputy City Manager
Carl Castillo, Chief Policy Advisor
Andy Frohardt, Assistant City Attorney III

EXECUTIVE SUMMARY

The purpose of this agenda item is to allow council to consider approving proposed Ordinance 8688 (**Attachment A**), granting a 10-year franchise agreement ("Proposed Franchise Agreement," **Exhibit A of Attachment A**) to ALLO Communications LLC ("ALLO" or "applicant") with an effective date of April 1, 2025. ALLO submitted an application on February 18, 2025 (**Attachment B**) for a non-exclusive cable franchise agreement to use city rights of way for the provision of cable services.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to introduce and order published by title only Ordinance 8688 granting a franchise by the City of Boulder, Colorado, to ALLO Communications LLC, its successors and assigns, pursuant to Chapter 6, "Boulder Cable Code," B.R.C. 1981, and ALLO Communications LLC's franchise application, to furnish cable television services within the identified franchise areas of the city and to all persons, businesses, and industries within the franchise areas and the right to acquire, construct, install, locate, maintain, operate and extend into, within and through said franchise areas of the city all facilities reasonably necessary to furnish cable television services within the franchise areas of the city and the right to make reasonable use of all streets and other public places and public easements as herein defined as may be necessary for the benefit of the city of Boulder; and fixing the terms and conditions thereof; and setting forth related details

FISCAL IMPACTS

Under the Proposed Franchise Agreement, the city would collect an annual franchise fee equal to five percent of ALLO's "gross revenue," as that term is defined in Section 11-6-2 of the Boulder Revised Code 1981. The city would also collect public, educational and government ("PEG") access channel fees equal to 0.48% of ALLO's gross revenue.

BACKGROUND

In January of this year, the city entered into a 20-year agreement with ALLO in which it agreed to lease the city's dark fiber backbone in exchange for retail broadband services. The agreement was designed to advance Boulder's goals for a digitally inclusive, economically competitive, and environmentally responsible community, positioning the city as a leader in equitable broadband access. ALLO broadband services are to include fiber-to-the-premise connections that enable internet, telephone, and video services. The city requires ALLO to agree to a cable franchise agreement for use of right of way for video services. On February 18, 2025, ALLO submitted an application (**Attachment B**) to the city for such franchise agreement.

The city negotiated the Proposed Franchise Agreement with ALLO and the terms are substantively identical to the recently-approved Comcast cable franchise agreement. It includes the requirements found in the city's Cable Code (Chapter 11-6 of the Boulder Revised Code 1981) and the Customer Service Standards found in Appendix A to the city's Cable Code.

ANALYSIS

As staff have previously mentioned before, the approval or denial of new franchises, and the renewal of the same, is heavily governed by federal law. Under federal law, a franchising authority (such as the city) "may not unreasonably refuse to award an additional competitive franchise." *See* 47 U.S.C. § 541(a)(1).

Pursuant to city code, new franchise applications are reviewed under Section 11-6-4(c)(3), B.R.C. That section requires that Council consider the below factors in deciding whether to approve the franchise. ALLO responded to this section of code directly in its application. Staff have evaluated these factors and provided their thoughts below:

A. Compliance with Law. *The extent to which the applicant has substantially complied with the applicable law and the material terms of any existing cable franchise for the city;*

Staff Response: Staff believe the applicant has complied with applicable law and the applicant does not have an existing franchise with the city.

B. Quality of Service. *Whether the quality of the applicant's service under any existing franchise in the city, including signal quality, response to customer complaints, billing practices and the like, has been reasonable in light of the needs and interests of the communities served;*

Staff Response: The applicant does not have any existing franchise with the city. Staff note that the Proposed Franchise Agreement with the applicant, as well as federal regulation, impose obligations upon the applicant with respect to customer complaints and service standards.

C. Qualifications. *Whether the applicant has the financial, technical and legal qualifications to hold a cable franchise;*

Staff Response: Staff believe the applicant has the financial, technical and legal qualifications to hold a cable franchise. The applicant operates in a variety of markets, including markets with comparable geology to Boulder that necessitates technical skill to bore through. The applicant's technical qualifications are found on page 2 of their application. The applicant's financial qualifications are found on page 4. ALLO has issued asset-backed securities (ABS bonds) secured by revenue generated by certain ALLO fiber networks. The ALLO bonds have received public ratings from Fitch Ratings. The majority of ALLO's (issued by ALLO Issuer, LLC) 2024-1 issuance were rated as class A-2 'Asf'; Outlook Stable. This bond rating is high for the private sector and summarizes investors' outlook on ALLO's financial health.

Staff note that ALLO has certified it has invested more than $1 billion in FTTP infrastructure across nearly 50 communities.

As part of its application, ALLO provided the city with access to its consolidated financial statements on a confidential basis (Exhibit A to **Attachment B** has been redacted). The statements were prepared by KPMG. The financial statements corroborate ALLO's application statements concerning financial capabilities. ALLO's borrowing capacity far exceeds its existing

debt obligations. There is nothing in the consolidated financial statements which suggest ALLO does not have the financial capability to construct a network in the city. City staff are continuing to review the statements and will apprise Council if there are any concerns.

Applicant has also provided financial statements, including a 10-Year Pro Forma (Exhibit B to **Attachment B**). Applicant has demonstrated it has both the technical and financial capabilities to develop networks in a variety of different locales.

D. Minimum Requirements. *Whether the application satisfies any minimum requirements established by the city and is otherwise reasonable to meet the future cable-related needs and interests of the community, taking into account the cost of meeting such needs and interests;*

Staff Response: The applicant satisfies all minimum requirements. The applicant has shown city staff they can and are prepared to build out their infrastructure to serve virtually the entire city. The applicant's plans for build out will broadly support future cable-related needs and interests of the community.

E. PEG. *Whether, to the extent not considered under the prior factor, the applicant will provide adequate PEG use, capacity, facilities and financial support;*

Staff Response: The applicant is promising via the Proposed Franchise Agreement to provide adequate PEG use, capacity, facilities, and financial support.

F. Public Interest. *Whether issuance of a franchise is in the public interest considering the immediate and future effect on the public rights-of-way and private property that would be used by the cable system, including the extent to which installation or maintenance as planned would require replacement of property or involve disruption of property, public services or use of the public rights-of-way; the effect of granting an overbuild franchise on the ability of any existing franchisee to meet the cable-related needs and interests of the community; and the comparative superiority or inferiority of competing applications; and*

Staff Response: The applicant has discussed, in significant detail and following significant planning, how its build-out will reduce the impact on the community. The applicant has already met with staff from Planning and Development Services to understand city requirements surrounding construction in the right of way, impact on the public, and planning to minimize and avoid disruption. The granting of this application will result in additional competition with other providers of video cable service. There are no competing applications by which to consider this application in comparison.

In addition, though not included as part of the application, staff identified ALLO received an overall "sustainability quality score" of "very good" from Moody's Investors Service. The report is included as **Attachment C**. The report shows that ALLO's sustainability efforts comport with the Moody's sustainability financing framework.

G. Competition. *Whether the approval of the application may eliminate or reduce competition in the delivery of cable service in the city.*

Staff Response: The grant of a franchise will promote competition within the city, not eliminate or reduce it.

NEXT STEPS

Council is scheduled for a March 20 public hearing on the second reading of Proposed Ordinance 8688. If the Proposed Franchise Agreement is approved, ALLO anticipates beginning construction of their infrastructure within the next few months. The city will support the construction process through the right-of-way permit and inspection process, as well as amplifying communications and information from ALLO about its progress.

ATTACHMENTS

A – Proposed Ordinance 8688 with Exhibit A, Proposed Cable Franchise Agreement with ALLO
B – ALLO Application for Cable Franchise Agreement
C – Moody's SQS2 Sustainability Quality Score

ORDINANCE 8688

AN ORDINANCE GRANTING A FRANCHISE BY THE CITY OF BOULDER, COLORADO, TO ALLO COMMUNICATIONS LLC, ITS SUCCESSORS AND ASSIGNS, PURSUANT TO CHAPTER 6, "BOULDER CABLE CODE," B.R.C.1981, AND ALLO COMMUNICATIONS LLC'S FRANCHISE APPLICATION, TO FURNISH CABLE TELEVISION SERVICES WITHIN THE IDENTIFIED FRANCHISE AREAS OF THE CITY AND TO ALL PERSONS, BUSINESSES, AND INDUSTRIES WITHIN THE FRANCHISE AREAS AND THE RIGHT TO ACQUIRE, CONSTRUCT, INSTALL, LOCATE, MAINTAIN, OPERATE AND EXTEND INTO, WITHIN AND THROUGH SAID FRANCHISE AREAS OF THE CITY ALL FACILITIES REASONABLY NECESSARY TO FURNISH CABLE TELEVISION SERVICES WITHIN THE FRANCHISE AREAS OF THE CITY AND THE RIGHT TO MAKE REASONABLE USE OF ALL STREETS AND OTHER PUBLIC PLACES AND PUBLIC EASEMENTS AS HEREIN DEFINED AS MAY BE NECESSARY FOR THE BENEFIT OF THE CITY OF BOULDER; AND FIXING THE TERMS AND CONDITIONS THEREOF; AND SETTING FORTH RELATED DETAILS

THE CITY COUNCIL OF THE CITY OF BOULDER FINDS AND RECITES THAT:

A. ALLO Communications LLC ("ALLO") submitted an application dated February 18, 2025, to the City of Boulder, Colorado, (the "City"), for the grant of a franchise, pursuant to Chapter 6, "Boulder Cable Code," B.R.C. 1981, to furnish cable television services to all persons, businesses, and industries within the franchise areas and the right to acquire, construct, install, locate, maintain, operate and extend into, within and through areas of the city all facilities reasonably necessary to furnish cable television services and the right to make reasonable use of all streets and other public places and public easements;

B. ALLO's technical ability, financial condition, legal qualifications, and character were considered and approved in a full public proceeding after due notice and a reasonable

opportunity to be heard;

C. ALLO's plans for constructing and operating the franchise were considered and found adequate and feasible and in accordance with Chapter 11-6, "Boulder Cable Code," B.R.C. 1981, as well as existing applicable state statutes, federal laws and regulations;

D. A negotiated Cable Franchise Agreement has been achieved. That agreement is appended and incorporated into this Ordinance as **Exhibit A**. The City Council finds that adoption of the negotiated Cable Franchise Agreement is in the best interests of the City and is in compliance with City policies and ordinances that regulate the granting of franchises.

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

Section 1. The City Council grants ALLO Communications LLC a non-exclusive franchise to make reasonable and lawful use of the Public Rights-of-Way within the city for the purpose of providing cable television services to all persons, businesses, and industries.

Section 2. The City Council approves the Cable Franchise Agreement between the City and ALLO in substantially the form of **Exhibit A**, and authorizes the city manager to execute the Cable Franchise Agreement and all agreements attendant thereto.

Section 3. The City Council approved Cable Franchise Agreement with ALLO shall have an effective date of April 1, 2025.

Section 4. By this Ordinance, the City Council does not alter, amend, or modify the Fiber Backbone Lease Agreement previously approved by City Council.

Section 5. 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 6. The City Council deems it appropriate that this Ordinance be published by title only and orders that copies of this Ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 6th day of March 2025.

_____
Aaron Brockett,
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, PASSED AND ADOPTED, this 20th day of March 2025.

_____
Aaron Brockett,
Mayor

Attest:

_____
City Clerk

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CABLE FRANCHISE AGREEMENT

ALLO COMMUNICATIONS LLC
AND
CITY OF BOULDER, COLORADO

April 1, 2025

ALLO COMMUNICATIONS LLC AND
CITY OF BOULDER, COLORADO

CABLE FRANCHISE AGREEMENT

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ALLO COMMUNICATIONS LLC AND
CITY OF BOULDER, COLORADO

CABLE FRANCHISE AGREEMENT

SECTION 1. DEFINITIONS AND EXHIBITS

(A) DEFINITIONS

For the purposes of this Franchise Agreement, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Words not defined shall be given their common and ordinary meaning. The word "shall" is always mandatory and not merely directory.

1.1 "Access" means the availability for noncommercial use by various agencies, institutions, organizations, groups and individuals in the community, including the City and its designees, of the Cable System to acquire, create, receive, and distribute video Cable Services and other services and signals as permitted under Applicable Law including without limitation:

(A) "Public Access" means Access where community-based, noncommercial organizations, groups or individual members of the general public, on a nondiscriminatory basis, are the primary users.

(B) "Educational Access" means Access where schools are the primary users having editorial control over programming and services. For purposes of this definition, "school" means any State-accredited educational institution, public or private, including, for example, primary and secondary schools, colleges and universities.

(C) "Government Access" means Access where governmental institutions or their designees are the primary users having editorial control over programming and services.

1.2 "Access Channel" means any Channel, or portion thereof, designated for Access purposes or otherwise made available to facilitate or transmit Access programming or services.

1.3 "Activated" means the status of any capacity or part of the Cable System in which any Cable Service requiring the use of that capacity or part is available without further installation of system equipment, whether hardware or software.

1.4 "Affiliate" when used in connection with Grantee, means any Person who owns or controls, is owned or controlled by, or is under common ownership or control with, Grantee.

1.5 "Applicable Law" means any statute, ordinance, judicial decision, executive order or regulation having the force and effect of law, including specifically the Cable Act, the Boulder Cable Code and the City's Design and Construction Standards, that determines the legal standing

of a case or issue.

1.6 "Bad Debt" means amounts lawfully billed to a Subscriber within the City and owed by that Subscriber for Cable Service and accrued as revenues on the books of Grantee, but not collected after reasonable efforts have been made by Grantee to collect the charges.

1.7 "Basic Service" is the level of programming service which includes, at a minimum, all Broadcast Channels, all PEG SD Access Channels required in this Franchise Agreement, and any additional Programming added by the Grantee, and is made available to all Cable Services Subscribers in the Franchise Area.

1.8 "Boulder Cable Code" means Title 11, Chapter 6 of the Boulder Revised Code 1981 (B.R.C. 1981), as the same may be amended from time to time.

1.9 "Broadcast Channel" means local commercial television stations, qualified low power stations and qualified local noncommercial educational television stations, as referenced under 47 USC §§ 534 and 535.

1.10 "Broadcast Signal" means a television or radio signal transmitted over the air to a wide geographic audience, and received by a Cable System by antenna, microwave, satellite dishes or any other means.

1.11 "Cable Act" means the Title VI of the Communications Act of 1934, as amended.

1.12 "Cable Operator" means any Person or groups of Persons, including Grantee, who provide(s) Cable Service over a Cable System and directly or through one or more affiliates owns a significant interest in such Cable System or who otherwise control(s) or is (are) responsible for, through any arrangement, the management and operation of such a Cable System.

1.13 "Cable Service" means the one-way transmission to Subscribers of video programming or other programming service, and Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

1.14 "Cable System" means any facility, including Grantee's, consisting of a set of closed transmissions paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple Subscribers within a community, but such term does not include (A) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (B) a facility that serves Subscribers without using any Public Right-of-Way; (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the federal Communications Act (47 U.S.C. §§ 201 *et seq*.), except that such facility shall be considered a Cable System (other than for purposes of Section 621(c) (47 U.S.C. § 541(c)) to the extent such facility is used in the transmission of video programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services; (D) an open video system that complies with federal statutes; or (E) any facilities of any electric utility used solely for operating its electric utility systems.

1.15 "Channel" means a portion of the electromagnetic frequency spectrum which is used in the Cable System and which is capable of delivering a television channel (as television channel is defined by the FCC by regulation).

1.16 "City" is the city of Boulder, Colorado, a body politic and corporate under the laws of the State of Colorado.

1.17 "City Council" means the Boulder City Council, or its successor, the governing body of the City.

1.18 "Colorado Communications and Utility Alliance" or "CCUA" means the non-profit entity formed by franchising authorities and local governments in Colorado or its successor entity, whose purpose is, among other things, to communicate with regard to franchising matters collectively and cooperatively.

1.19 "Commercial Subscribers" means any Subscribers other than Residential Subscribers.

1.20 "Demarcation Point" means up to and including the modulator where the City signal is converted into a format to be transmitted over a fiber connection to the Grantee.

1.21 "Designated Access Provider" means the entity or entities designated now or in the future by the City to manage or co-manage Access Channels and facilities. The City may be a Designated Access Provider.

1.22 "Digital Starter Service" means the Tier of optional video programming services, which is the level of Cable Service received by most Subscribers above Basic Service, and does not include Premium Services.

1.23 "Downstream" means carrying a transmission from the Headend to remote points on the Cable System or to interconnection points on the Cable System.

1.24 "Dwelling Unit" one room or rooms connected together for residential occupancy and including bathroom and kitchen facilities. If there is more than one meter for any utility, address to the property or kitchen; or if there are separate entrances to rooms which could be used as separate dwelling units; or if there is a lockable, physical separation between rooms in the dwelling unit such that a room or rooms on each side of the separation could be used as a dwelling unit, multiple dwelling units are presumed to exist; but this presumption may be rebutted by evidence that the residents of the dwelling share utilities and keys to all entrances to the property and that they: (A) share a single common bathroom as the primary bathroom, or (B) share a single common kitchen as the primary kitchen.

1.25 "Effective Date" means April 1, 2025.

1.26 "FCC" means the Federal Communications Commission.

1.27 "Fiber Optic" means a transmission medium of optical fiber cable, along with all associated

electronics and equipment, capable of carrying Cable Service by means of electric lightwave impulses.

1.28 "Franchise" shall mean a nonexclusive authorization granted in accordance with the Boulder Cable Code to install cables, wires, lines, optical fiber, underground conduit, and other devices necessary and appurtenant to the construction, operation, maintenance and repair of a Cable System along the public rights of way within all or a specified area of the City. Any such authorization, in whatever form granted, shall not mean or include: (A) any other permit or authorization required for the privilege of transacting and carrying on a business within the City required by the ordinances and laws of the City; (B) any permit or authorization required in connection with operations on public streets, rights of way or other property, including without limitation, permits for attaching devices to poles or other structures, whether owned by the City or a private entity, or for excavating or performing other work in or along public rights of way; (C) agreements required for the use of conduits and poles, whether publicly or privately owned; or d) express or implicit authorization to provide service to, or install a cable system on, private property without owner consent (except for use of compatible easements pursuant to Section 621(a)(2) of the Cable Act, 47 USC § 541(a)(2)).

1.29 "Franchise Agreement" means the document in which this definition appears, *i.e.*, the contractual agreement, executed between the City and Grantee, containing the specific provisions of the authorization granted, including references, specifications, requirements and other related matters.

1.30 "Franchise Area" means the area within the jurisdictional boundaries of the City, including any areas annexed by the City during the term of this Franchise Agreement.

1.31 "Franchise Fee" means that fee payable to the City described in Subsection 3.1.

1.32 "Grantee" means ALLO Communications LLC or its successor, transferee or assignee.

1.33 "Gross Revenues" means, and shall be construed broadly to include all revenues derived directly or indirectly by Grantee or an Affiliated Entity that is the cable operator of the Cable System, from the operation of Grantee's Cable System to provide Cable Services within the City. Gross revenues include, by way of illustration and not limitation:

- monthly fees for Cable Services, regardless of whether such Cable Services are provided to residential or commercial customers, including revenues derived from the provision of all Cable Services (including without limitation pay or premium Cable Services, digital Cable Services, pay-per-view, pay-per-event and video-on-demand Cable Services);

- installation, reconnection, downgrade, upgrade or similar charges associated with changes in subscriber Cable Service levels;

- fees paid to Grantee for channels designated for commercial or leased access use, allocated on a *pro rata* basis using total Cable Service subscribers within the City;

- converter, remote control, and other Cable Service equipment rentals, leases, or sales;

- Advertising Revenues as defined herein;

- late fees, convenience fees and administrative fees which shall be allocated on a pro rata basis using Cable Services revenue as a percentage of total subscriber revenues within the City;

- revenues from program guides;

- FCC Regulatory Fees; and

- commissions from home shopping channels and other Cable Service revenue sharing arrangements which shall be allocated on a pro rata basis using total Cable Service subscribers within the City.

(A) "Advertising Revenues" shall mean revenues derived from sales of advertising that are made available to Grantee's Cable System subscribers within the City and shall be allocated on a pro rata basis using total Cable Service subscribers reached by the advertising. Additionally, Grantee agrees that Gross Revenues subject to franchise fees shall include all commissions, rep fees, Affiliated Entity fees, or rebates paid to National Cable Communications ("NCC") or their successors associated with sales of advertising on the Cable System within the City allocated according to this Subsection using total Cable Service subscribers reached by the advertising.

(B) "Gross Revenues" shall not include:

- actual bad debt write-offs, except any portion which is subsequently collected which shall be allocated on a *pro rata* basis using Cable Services revenue as a percentage of total subscriber revenues within the City;

- any taxes or fees on services furnished by Grantee imposed by any municipality, State or other governmental unit, provided that Franchise Fees and the FCC regulatory fee shall not be regarded as such a tax or fee;

- fees imposed by any municipality, State or other governmental unit on Grantee including but not limited to Public, Educational and Governmental (PEG) Fees;

- launch fees and marketing co-op fees; and

- unaffiliated third party advertising sales agency fees which are reflected as a deduction from revenues.

(C) To the extent revenues are received by Grantee for the provision of a discounted bundle of services which includes Cable Services and non-Cable Services, Grantee shall calculate revenues to be included in Gross Revenues using a methodology that allocates revenue on a *pro*

rata basis when comparing the bundled service price and its components to the sum of the published rate card, except as required by specific federal, State or local law, it is expressly understood that equipment may be subject to inclusion in the bundled price at full rate card value. This calculation shall be applied to every bundled service package containing Cable Service from which Grantee derives revenues in the City. The City reserves its right to review and to challenge Grantee's calculations.

(D) Grantee reserves the right to change the allocation methodologies set forth in this Subsection 1.33 in order to meet the standards required by governing accounting principles as promulgated and defined by the Financial Accounting Standards Board ("FASB"), Emerging Issues Task Force ("EITF") or the U.S. Securities and Exchange Commission ("SEC"). Grantee will explain and document the required changes to the City within three (3) months of making such changes, and as part of any audit or review of Franchise Fee payments, and any such changes shall be subject to Subsection 1.33(E), below.

(E) Resolution of any disputes over the classification of revenue should first be attempted by agreement of the Parties, but should no resolution be reached, the Parties agree that reference shall be made to generally accepted accounting principles ("GAAP") as promulgated and defined by the Financial Accounting Standards Board ("FASB"), Emerging Issues Task Force ("EITF") and/or the U.S. Securities and Exchange Commission ("SEC"). Notwithstanding the forgoing, the City reserves its right to challenge Grantee's calculation of Gross Revenues, including the interpretation of GAAP as promulgated and defined by the FASB, EITF or the SEC.

1.34 "Headend" means any facility for signal reception and dissemination on a Cable System, including cables, antennas, wires, satellite dishes, monitors, switchers, modulators, processors for Broadcast Signals, equipment for the Interconnection of the Cable System with adjacent Cable Systems and interconnection of any networks which are part of the Cable System, and all other related equipment and facilities.

1.35 "Leased Access Channel" means any Channel or portion of a Channel commercially available for video programming by Persons other than Grantee, for a fee or charge.

1.36 "Manager" means the City Manager of the City or designee.

1.37 "Person" means any individual, sole proprietorship, partnership, association, or corporation, or any other form of entity or organization.

1.38 "Premium Service" means programming choices (such as movie Channels, pay-per-view programs, or video on demand) offered to Subscribers on a per-Channel, per-program or per-event basis.

1.39 "Public Right(s)-of-Way" shall mean the surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, park, parkway, waterway, easement, or similar property in which the City now or hereafter holds any property interest, which, consistent with the purposes for which it was dedicated, may be used for the purpose of installing and maintaining a Cable System. No reference

herein to a "Public Right-of-Way" shall be deemed to be a representation or guarantee by the City that its interest or other right to control the use of such property is sufficient to permit its use for such purposes, and Grantee shall be deemed to gain only those rights to use as are properly in the City and as the City may have the undisputed right and power to give.

1.40 "Residential Subscriber" means any Person who receives Cable Service delivered to Dwelling Units or Multiple Dwelling Units, excluding such Multiple Dwelling Units billed on a bulk-billing basis.

1.41 "State" means the State of Colorado.

1.42 "Subscriber" means any Person who or which elects to subscribe to, for any purpose, Cable Service provided by Grantee by means of or in connection with the Cable System and whose premises are physically wired and lawfully Activated to receive Cable Service from Grantee's Cable System, and who is in compliance with Grantee's regular and nondiscriminatory terms and conditions for receipt of service.

1.43 "Subscriber Network" means that portion of the Cable System used primarily by Grantee in the transmission of Cable Services to Subscribers.

1.44 "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received (as provided in 47 U.S.C. § 153(43)).

1.45 "Telecommunications Service" means the offering of Telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used (as provided in 47 U.S.C. § 153(46)).

1.46 "Tier" means a group of Channels for which a single periodic subscription fee is charged.

1.47 "Two-Way" means that the Cable System is capable of providing both Upstream and Downstream transmissions.

1.48 "Upstream" means carrying a transmission to the Headend from remote points on the Cable System or from interconnection points on the Cable System.

(B) EXHIBITS

The following documents, which are occasionally referred to in this Franchise Agreement, are formally incorporated and made a part of this Franchise Agreement by this reference:

(1) ***Exhibit A,*** entitled Report Form**.**

(2) ***Exhibit B,*** entitled Customer Service Standards.

SECTION 2. GRANT OF FRANCHISE

2.1 Grant

(A) The City hereby grants to Grantee a nonexclusive authorization to make reasonable and lawful use of the Public Rights-of-Way within the City to construct, operate, maintain, reconstruct and rebuild a Cable System for the purpose of providing Cable Service subject to the terms and conditions set forth in this Franchise Agreement and in any prior utility or use agreements entered into by Grantee with regard to any individual property. This Franchise Agreement shall constitute both a right and an obligation to provide the Cable Services required by, and to fulfill the obligations set forth in, the provisions of this Franchise Agreement.

(B) Nothing in this Franchise Agreement shall be deemed to waive the lawful requirements of any generally applicable City ordinance.

(C) Each term, provision or condition herein is subject to the provisions of Applicable Law. In the event of a conflict between the Boulder Cable Code as it existed on the Effective Date of this Franchise Agreement and this Franchise Agreement, the Franchise Agreement shall control, except where expressly provided otherwise in this Franchise Agreement. However, although the exercise of rights hereunder is subject to the Boulder Cable Code, the Boulder Cable Code is not a contract. Nothing in this Subsection 2.1 shall prevent Grantee from challenging a particular amendment to the Boulder Cable Code as an impairment of this Franchise Agreement.

(D) This Franchise Agreement shall not be interpreted to prevent the City from imposing additional lawful conditions for the use of the Rights-of-Way.

(E) Grantee promises and guarantees, as a condition of exercising the privileges granted by this Franchise Agreement, that any Affiliate of the Grantee directly involved in the offering of Cable Service in the Franchise Area, or directly involved in the management or operation of the Cable System in the Franchise Area, will also comply with the obligations of this Franchise Agreement.

(F) No rights shall pass to Grantee by implication. Without limiting the foregoing, by way of example and not limitation, this Franchise Agreement shall not include or be a substitute for:

(1) Any other permit or authorization required for the privilege of transacting and carrying on a business within the City that may be required by the ordinances and laws of the City;

(2) Any permit, agreement, or authorization required by the City for Public Right-of-Way users in connection with operations on or in Public Rights-of-Way or public property including, by way of example and not limitation, street cut permits; or

(3) Any permits or agreements for occupying any other property of the City or private entities to which access is not specifically granted by this Franchise Agreement including, without limitation, permits and agreements for placing devices on poles, in

conduits or in or on other structures.

(G) This Franchise Agreement is intended to convey limited rights and interests only as to those Public Rights-of-Way in which the City has an actual interest. It is not a warranty of title or interest in any Public Right-of-Way; it does not provide the Grantee with any interest in any particular location within the Public Right-of-Way; and it does not confer rights other than as expressly provided in the grant hereof.

2.2 Use of Public Rights-of-Way

(A) Subject to the City's supervision and control, Grantee may erect, install, construct, repair, replace, reconstruct, and retain in, on, over, under, upon, across, and along the Public Rights-of-Way within the City such wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, pedestals, attachments and other property and equipment as are necessary and appurtenant to the operation of a Cable System within the City. Grantee, through this Franchise Agreement, is granted extensive and valuable rights to operate its Cable System for profit using the City's Public Rights-of-Way in compliance with all applicable City construction codes and procedures. As trustee for the public, the City is entitled to fair compensation as provided for in Section 3 of this Franchise Agreement to be paid for these valuable rights throughout the term of the Franchise Agreement.

(B) Grantee must follow City established nondiscriminatory requirements for placement of Cable System facilities in Public Rights-of-Way, including the specific location of facilities in the Public Rights-of-Way, and must in any event install Cable System facilities in a manner that minimizes interference with the use of the Public Rights-of-Way by others, including others that may be installing communications facilities. Within limits reasonably related to the City's role in protecting public health, safety and welfare, the City may require that Cable System facilities be installed at a particular time, at a specific place or in a particular manner as a condition of access to a particular Public Right-of-Way; may deny access if Grantee is not willing to comply with City's requirements; and may remove, or require removal of, any facility that is not installed by Grantee in compliance with the requirements established by the City, or which is installed without prior City approval of the time, place or manner of installation, and charge Grantee for all the costs associated with removal; and may require Grantee to cooperate with others to minimize adverse impacts on the Public Rights-of-Way through joint trenching and other arrangements.

2.3 Effective Date and Term of Franchise Agreement

This Franchise Agreement and the rights, privileges and authority granted hereunder shall take effect on April 1, 2025 (the "Effective Date"), and shall terminate at midnight on March 31, 2035 unless terminated sooner as hereinafter provided.

2.4 Franchise Nonexclusive

The Franchise granted herein shall be nonexclusive, and subject to all prior franchises, rights, interests, easements or licenses granted by the City to any Person to use any Public Right-of-Way for any purpose whatsoever, including the right of the City to use same for any purpose it

deems fit, including the same or similar purposes allowed Grantee hereunder. The City may at any time grant authorization to use the Rights-of-Way for any purpose not incompatible with Grantee's authority under this Franchise and for such additional franchises for Cable Systems as the City deems appropriate.

2.5 Police Powers

Grantee's rights hereunder are subject to the police powers of the City to adopt and enforce ordinances necessary to the safety, health, and welfare of the public, and Grantee agrees to comply with all laws and ordinances of general applicability enacted, or hereafter enacted, by the City or any other legally constituted governmental unit having lawful jurisdiction over the subject matter hereof. The City shall have the right to adopt, from time to time, such ordinances as may be deemed necessary in the exercise of its police power. The Grantee reserves the right to challenge any ordinance(s) it believes are not a generally applicable exercise of City's police powers. Any conflict between the provisions of this Franchise and any other present or future lawful exercise of the City's police powers shall be resolved in favor of the latter.

2.6 Competitive Equity

(A) The Grantee acknowledges and agrees that the City reserves the right to grant one (1) or more additional franchises or other similar lawful authorization to provide Cable Services within the City. If the City grants such an additional franchise or other similar lawful authorization containing material terms and conditions that differ from Grantee's material obligations under this Franchise Agreement, or amends the material terms of any current cable franchise or similar lawful authorization to provide multi-channel video services by a wireline based provider, then the City agrees that the obligations in this Franchise Agreement will, pursuant to the process set forth in this Section, be amended to include any material terms or conditions that it imposes upon the new entrant, or in any such amendment, or provide relief from existing material terms or conditions, so as to ensure that the regulatory and financial burdens on each entity are materially equivalent. "Material terms and conditions" include without limitation: Franchise Fees and Gross Revenues; insurance; System build-out requirements; security instruments; Public, Education and Government Access Channels and support; customer service standards; required reports and related record keeping; competitive equity (or its equivalent); audits; dispute resolution; remedies; and notice and opportunity to cure breaches. The Parties agree that this provision shall not require a word for word identical franchise or authorization for a competitive entity so long as the regulatory and financial burdens on each entity are materially equivalent. Video programming services (as defined in the Cable Act) delivered over wireless broadband networks are specifically exempted from the requirements of this Section.

(B) The modification process for this Franchise Agreement, as provided for in Section 2.6 (A), above, shall only be initiated by written notice by the Grantee to the City regarding specified franchise obligations. Grantee's notice shall address the following: (1) identifying the specific terms or conditions in the competitive cable services franchise which are materially different from Grantee's obligations under this Franchise Agreement; (2) identifying the Franchise Agreement terms and conditions for which Grantee is seeking amendments; (3) providing text for any proposed Franchise Agreement amendments to the City, with a written explanation of why the

proposed amendments are necessary and consistent.

(C) Upon receipt of Grantee's written notice as provided in Section 2.6 (B), above, the City and Grantee agree that they will use best efforts in good faith to negotiate Grantee's proposed Franchise Agreement modifications, and that such negotiation will proceed and conclude within a ninety-day (90) time period, unless that time period is reduced or extended by mutual agreement of the Parties. If the City and Grantee reach agreement on the Franchise Agreement modifications pursuant to such negotiations, then the City shall amend this Franchise Agreement to include the modifications.

(D) In the alternative to Franchise Agreement modification negotiations as provided for in Section 2.6 (C), above, or if the City and Grantee fail to reach agreement in such negotiations, Grantee may, at its option, elect to replace this Franchise Agreement by substituting the franchise agreement or other similar lawful authorization that the City grants to another provider of Cable Services (with the understanding that Grantee will use its current system design and technology infrastructure to meet any requirements of the new franchise so as to ensure that the regulatory and financial burdens on each entity are equivalent). If Grantee so elects, the City shall immediately commence proceedings to replace this Franchise Agreement with the franchise agreement entered into by the City with the other Cable Services provider.

(E) Notwithstanding anything contained in Subsections 2.6(A) through (D), above, to the contrary, the City shall not be obligated to amend or replace this Franchise Agreement unless the applicable provider makes Cable Services available for purchase by Subscribers or customers under its franchise agreement with the City.

(F) Subject to Section 15, Severability, in the event that State or federal laws, rules, or regulations preempt a provision or limit the enforceability of a provision of this Franchise Agreement, then the provision shall be read to be preempted to the extent and for the time, but only to the extent and for the time, required by law. In the event such State or federal law, rule, or regulation is subsequently repealed, rescinded, amended, or otherwise changed, so that the provision hereof that had been preempted is no longer preempted, such provision shall thereupon return to full force and effect and shall thereafter be binding on the parties hereto, without the requirement of further action on the part of the City.

(G) Notwithstanding any provision to the contrary, at any time that a wireline facilities-based entity, legally authorized by State or federal law, makes available for purchase by Subscribers or customers, Cable Services or multiple Channels of video programming within the Franchise Area without a franchise or other similar lawful authorization granted by the City, then:

(1) Grantee may negotiate with the City to seek Franchise modifications as per Section 2.6(C) above; or

(a) the term of Grantee's Franchise shall, upon ninety (90) days written notice from Grantee, be shortened so that the Franchise shall be deemed to expire on a date eighteen (18) months from the first day of the month following the date of Grantee's notice; or,

(b) Grantee may assert, at Grantee's option, that this Franchise is rendered "commercially impracticable," and invoke the modification procedures set forth in Section 625 of the Cable Act.

2.7 Familiarity with Franchise Agreement

The Grantee acknowledges and warrants by acceptance of the rights, privileges and agreements granted herein, that it has carefully read and fully comprehends the terms and conditions of this Franchise Agreement and is willing to and does accept all lawful and reasonable risks of the meaning of the provisions, terms and conditions herein. The Grantee further acknowledges and states that it has fully studied and considered the requirements and provisions of this Franchise Agreement, and finds that the same are commercially practicable at this time, and consistent with all local, State and federal laws and regulations currently in effect, including the Cable Act. The City and Grantee agree that this Franchise Agreement is a negotiated agreement and that for the purpose of interpretation neither City nor Grantee shall be deemed the drafter of this Franchise Agreement.

2.8 Effect of Acceptance

By accepting the Franchise, the Grantee: (1) acknowledges and accepts the City's legal right to issue and enforce the Franchise Agreement; (2) accepts and agrees to comply with every provision of this Franchise Agreement subject to Applicable Law; and following execution of this Franchise, and for any subsequent renewals, (3) agrees that the Franchise was granted pursuant to processes and procedures consistent with Applicable Law, and that it will not raise any claim to the contrary.

SECTION 3. FRANCHISE FEE PAYMENT AND FINANCIAL CONTROLS

3.1 Franchise Fee

As compensation for the benefits and privileges granted under this Franchise Agreement and in consideration of permission to use the City's Public Rights-of-Way, Grantee shall continue to pay as a Franchise Fee to the City, throughout the duration of and consistent with this Franchise Agreement, an amount equal to five percent (5%) of Grantee's Gross Revenues.

3.2 Payments

Grantee's Franchise Fee payments to the City shall be computed quarterly for the preceding calendar quarter ending March 31, June 30, September 30, and December 31. Each quarterly payment shall be due and payable no later than thirty (30) days after said dates.

3.3 Acceptance of Payment and Recomputation

No acceptance of any payment shall be construed as an accord by the City that the amount paid is, in fact, the correct amount, nor shall any acceptance of payments be construed as a release

of any claim the City may have for further or additional sums payable or for the performance of any other obligation of Grantee.

3.4 Quarterly Franchise Fee Reports

Each payment shall be accompanied by a written report to the City or concurrently sent under separate cover, verified by an authorized representative of Grantee and containing an accurate statement in summarized form, as well as in detail, of Grantee's Gross Revenues and the computation of the payment amount. Such report shall detail all Gross Revenues of the Cable System.

3.5 Annual Franchise Fee Reports

Grantee shall, within sixty (60) days after the end of each year, furnish to the City a statement stating the total amount of Gross Revenues for the year and all payments, deductions and computations for the period.

3.6 Audits

On an annual basis, upon thirty (30) days' prior written notice, the City, including the City's Auditor or their authorized auditors, shall have the right to conduct an independent audit/review of Grantee's records reasonably related to the administration or enforcement of this Franchise Agreement. Pursuant to Subsection 1.33, as part of the Franchise Fee audit/review, the City shall specifically have the right to review relevant data related to the allocation of revenue to Cable Services in the event Grantee offers Cable Services bundled with non-Cable Services. For purposes of this section, "relevant data" shall include, at a minimum, Grantee's records, produced and maintained in the ordinary course of business, showing the subscriber counts per package and the revenue allocation per package for each package that was available for City subscribers during the audit period. To the extent that the City does not believe that the relevant data supplied is sufficient for the City to complete its audit/review, the City may require other relevant data. For purposes of this Subsection 3.6, the "other relevant data" shall generally mean all: (1) billing reports, (2) financial reports (such as General Ledgers) and (3) sample customer bills used by Grantee to determine Gross Revenues for the Franchise Area that would allow the City to recompute the Gross Revenue determination. If the audit/review shows that Franchise Fee payments have been underpaid by five percent (5%) or more (or such other contract underpayment threshold as set forth in a generally applicable and enforceable regulation or policy of the City related to audits, whichever is less), Grantee shall pay the total reasonable cost of the audit/review, such cost not to exceed $7,500 for each year of the audit period. The City's right to audit/review and the Grantee's obligation to retain records related to this Subsection shall expire three (3) years after each Franchise Fee payment has been made to the City.

3.7 Late Payments

In the event any payment due quarterly is not received within thirty (30) days from the end of the calendar quarter, Grantee shall pay interest on the amount due (at the prime rate as listed in the Wall Street Journal on the date the payment was due), compounded daily, calculated from the

date the payment was originally due until the date the City receives the payment.

3.8 Underpayments

If a net Franchise Fee underpayment is discovered as the result of an audit, Grantee shall pay interest at the rate of the eight percent (8%) per annum, compounded quarterly, calculated from the date each portion of the underpayment was originally due until the date Grantee remits the underpayment to the City.

3.9 Alternative Compensation

In the event the obligation of Grantee to compensate the City through Franchise Fee payments is lawfully suspended or eliminated, in whole or part, then Grantee shall pay to the City compensation equivalent to the compensation paid to the City by other similarly situated users of the City's Public Rights-of-Way for Grantee's use of the City's Public Rights-of-Way, such payments shall be the equivalent of five percent (5%) of Grantee's Gross Revenues (subject to the other provisions contained in this Franchise Agreement), to the extent consistent with Applicable Law.

3.10 Maximum Legal Compensation

The Parties acknowledge that, at present, applicable federal law limits the City to collection of a maximum permissible Franchise Fee of five percent (5%) of Grantee's Gross Revenues. In the event that at any time during the duration of this Franchise Agreement, the City is authorized to collect an amount in excess of five percent (5%) of Grantee's Gross Revenues, then this Franchise Agreement may be amended unilaterally by the City to provide that such excess amount shall be added to the Franchise Fee payments to be paid by Grantee to the City hereunder, provided that Grantee has received at least ninety (90) days prior written notice from the City of such amendment, so long as all cable operators in the City are paying the same Franchise Fee amount.

3.11 Additional Commitments Not Franchise Fee Payments

(A) The PEG Capital Contribution pursuant to Subsection 9.5, as well as any charges incidental to the awarding or enforcing of this Franchise (including, without limitation, payments for bonds, security funds, letters of credit, insurance, indemnification, penalties or liquidated damage) and Grantee's costs of compliance with Franchise obligations (including, without limitation, compliance with customer service standards and build out obligations) shall not be offset against Franchise Fees. Furthermore, the City and Grantee agree that any local tax of general applicability shall be in addition to any Franchise Fees required herein, and there shall be no offset against Franchise Fees. Notwithstanding the foregoing, Grantee reserves all rights to offset cash or non-cash consideration or obligations from Franchise Fees, consistent with Applicable Law. The City likewise reserves all rights it has under Applicable Law. Should Grantee elect to offset the items set forth herein, or other Franchise commitments such as complimentary Cable Service, against Franchise Fees in accordance with Applicable Law, including any Orders resulting from the FCC's 621 proceeding, MB Docket No. 05-311, Grantee shall provide the City with advance written notice. Such notice shall document the proposed offset or service charges so that the City

can make an informed decision as to its course of action. Upon receipt of such notice, the City shall have up to one hundred and twenty (120) days to either (1) maintain the commitment with the understanding that the value shall be offset from Franchise Fees; (2) relieve Grantee from the commitment obligation under the Franchise; or (3) pay for the services rendered pursuant to the commitment in accordance with Grantee's regular and nondiscriminatory term and conditions.

(B) Grantee's notice pursuant to Subsection 3.11(A), shall, at a minimum, address the following: (1) identify the specific cash or non-cash consideration or obligations that must be offset from Grantee's Franchise Fee obligations; (2) identify the Franchise terms and conditions for which Grantee is seeking amendments; (3) provide text for any proposed Franchise amendments to the City, with a written explanation of why the proposed amendments are necessary and consistent with Applicable Law; (4) provide all information and documentation reasonably necessary to address how and why specific offsets are to be calculated and (5) if applicable, provide all information and documentation reasonably necessary to document how Franchise Fee offsets may be passed through to Subscribers in accordance with 47 U.S.C. 542(e). Nothing in this Subsection 3.11(B) shall be construed to extend the one hundred and twenty (120)-day time period for the City to make its election under Subsection 3.11(A); provided, however, that any disagreements or disputes over whether sufficient information has been provided pursuant to this Subsection (B) may be addressed under Subsections 13.1 or 13.2 of this Franchise Agreement.

(C) Upon receipt of Grantee's written notice as provided in Subsection 3.11(B), the City and Grantee agree that they will use best efforts in good faith to negotiate Grantee's proposed Franchise modifications and agree to what offsets, if any, are to be made to the Franchise Fee obligations. Such negotiation will proceed and conclude within a one hundred and twenty (120)-day time period, unless that time period is reduced or extended by mutual agreement of the parties. If the City and Grantee reach agreement on the Franchise modifications pursuant to such negotiations, then the City shall amend this Franchise to include those modifications.

(D) If the Parties are unable to reach agreement on any Franchise Fee offset issue within one hundred and twenty (120) days or such other time as the parties may mutually agree, each Party reserves all rights it may have under Applicable Law to address such offset issues.

(E) The City acknowledges that Grantee currently provides one outlet of Basic Service and Digital Starter Service and associated equipment to certain City-owned and occupied or leased and occupied buildings, and fire stations located in areas where Grantee provides Cable Service. Outlets of Basic and Digital Starter Service provided in accordance with this Subsection may be used to distribute Cable Services throughout such buildings, provided such distribution can be accomplished without causing Cable System disruption and general technical standards are maintained. Grantee's commitment to provide this service is voluntary and may be terminated by Grantee at its sole discretion.

(1) Grantee's termination of complimentary services provided shall be pursuant to the provisions of Subsections 3.11(A) through -(E), above. The City may make a separate election for each account or line of service identified in the notice (for example, the City may choose to accept certain services or accounts as offsets to Franchise Fees and discontinue other services or accounts), so long as all elections are made within one

hundred and twenty (120) days. Grantee shall also provide written notice to each entity that is currently receiving complimentary services with copies of those notice(s) sent to the City.

(2) Notwithstanding the foregoing, Grantee reserves all rights to offset cash or non-cash consideration or obligations from Franchise Fees, consistent with Applicable Law. The City likewise reserves all rights it has under Applicable Law.

(F) The parties understand and agree that offsets may be required and agreed to as a result of the FCC's Order in what is commonly known as the 621 Proceeding, MB Docket No. 05-311. Should there be a new Order in the 621 Proceeding, or any other change in Applicable Law,which would permit any cash or non-cash consideration or obligations to be required by this Franchise without being offset from Franchise Fees, or would change the scope of the City's regulatory authority over the use of the rights-of-way by the Grantee, the parties shall, within one hundred and twenty (120) days of written notice from the City, amend this Franchise to reinstate such consideration or obligations without offset from Franchise Fees, and to address the full scope of the City's regulatory authority.

3.12 Tax Liability

The Franchise Fees shall be in addition to all taxes or other levies or assessments which are now or hereafter required to be paid by businesses in general by any law of the City, the State or the United States including, without limitation, sales, use and other taxes, business license fees or other payments. Payment of the Franchise Fees under this Franchise Agreement shall not exempt Grantee from the payment of any other license fee, permit fee, tax or charge on the business, occupation, property or income of Grantee that may be lawfully imposed by the City. Any other license fees, taxes or charges shall be of general applicability in nature and shall not be levied against Grantee solely because of its status as a Cable Operator, or against Subscribers, solely because of their status as such.

3.13 Financial Records

Grantee agrees to meet with a representative of the City upon request to review Grantee's methodology of record-keeping, financial reporting, the computing of Franchise Fee obligations and other procedures, the understanding of which the City deems necessary for reviewing reports and records.

3.14 Payment on Termination

If this Franchise Agreement terminates for any reason, the Grantee shall file with the City within ninety (90) calendar days of the date of the termination, a financial statement, certified by an independent certified public accountant, showing the Gross Revenues received by the Grantee since the end of the previous fiscal year. The City reserves the right to satisfy any remaining financial obligations of the Grantee to the City by utilizing the funds available in the letter of credit or other security provided by the Grantee.

SECTION 4. ADMINISTRATION AND REGULATION

4.1 Authority

(A) The City shall be vested with the power and right to reasonably regulate the exercise of the privileges permitted by this Franchise Agreement in the public interest, or to delegate that power and right, or any part thereof, to the extent permitted under Applicable Law, to any agent including without limitation the CCUA in its sole discretion.

(B) Nothing in this Franchise Agreement shall limit nor expand the City's right of eminent domain under State law; provided, however, that in any condemnation action taken by the City or for a public purpose pursued to the City, no award shall be made for the value of the Franchise or the use of Public Rights-of-Way where the City is not acquiring Grantee's assets, system, fixtures, or equipment.

4.2 Rates and Charges

All of Grantee's rates and charges related to or regarding Cable Services shall be subject to regulation by the City to the full extent authorized by applicable federal, State and local laws.

4.3 Rate Discrimination

All of Grantee's rates and charges shall be published (in the form of a publicly available rate card) and be non-discriminatory as to all Persons and organizations of similar classes, under similar circumstances and conditions. Grantee shall apply its rates in accordance with Applicable Law, with identical rates and charges for all Subscribers receiving identical Cable Services, without regard to race, color, ethnic or national origin, religion, age, sex, sexual orientation, marital, military or economic status, or physical or mental disability or geographic location within the City. Grantee shall offer the same Cable Services to all Residential Subscribers at identical rates to the extent required by Applicable Law and to Multiple Dwelling Unit Subscribers to the extent authorized by FCC rules or Applicable Law. Grantee shall permit Subscribers to make any lawful in-residence connections the Subscriber chooses without additional charge nor penalizing the Subscriber therefor. However, if any in-home connection requires service from Grantee due to signal quality, signal leakage or other factors, caused by improper installation of such in-home wiring or faulty materials of such in-home wiring, the Subscriber may be charged reasonable service charges by Grantee. Nothing herein shall be construed to prohibit:

(A) The temporary reduction or waiving of rates or charges in conjunction with valid promotional campaigns;

(B) The offering of reasonable discounts to senior citizens or economically disadvantaged citizens;

(C) The offering of rate discounts for Cable Service; or

(D) The Grantee from establishing different and nondiscriminatory rates and charges

and classes of service for Commercial Subscribers, as allowable by federal law and regulations.

4.4 Filing of Rates and Charges

(A) Throughout the term of this Franchise Agreement, Grantee shall maintain on file with the City a complete schedule of applicable rates and charges for Cable Services provided under this Franchise Agreement. Nothing in this Subsection shall be construed to require Grantee to file rates and charges under temporary reductions or waivers of rates and charges in conjunction with promotional campaigns.

(B) Upon request of the City, Grantee shall provide a complete schedule of current rates and charges for all Leased Access Channels, or portions of such Channels, provided by Grantee. The schedule shall include a description of the price, terms, and conditions established by Grantee for Leased Access Channels.

4.5 Cross-Subsidization

Grantee shall comply with all Applicable Laws regarding rates for Cable Services and all Applicable Laws covering issues of cross-subsidization.

4.6 Reserved Authority

Both Grantee and the City reserve all rights they may have under the Cable Act and any other relevant provisions of Applicable Law.

4.7 Amendment Procedure

Any amendment to this Franchise Agreement shall be made pursuant to the provisions of the Boulder Cable Code as it existed on the Effective Date of this Franchise Agreement. Within thirty (30) days of receipt of written notice that a Party wishes to amend this Franchise Agreement, the City and Grantee shall meet to discuss the proposed amendment(s). If the Parties reach a mutual agreement upon the suggested amendment(s), such amendment(s) shall be submitted to the City Council for its approval. If so approved by the City Council and the Grantee, then such amendment(s) shall be deemed part of this Franchise Agreement. If mutual agreement is not reached, there shall be no amendment.

4.8 Performance Evaluations

(A) The Grantor may hold performance evaluation sessions upon ninety (90) days written notice, provided that such evaluation sessions shall be held no more frequently than once every two (2) years. All such evaluation sessions shall be conducted by the Grantor.

(B) Special evaluation sessions may be held at any time by the Grantor during the term of this Franchise, upon ninety (90) days written notice to Grantee.

(C) All regular evaluation sessions shall be open to the public and announced at least

two (2) weeks in advance in any manner within the discretion of the Grantor. Grantee shall also include with or on the Subscriber billing statements for the billing period immediately preceding the commencement of the session, written notification of the date, time, and place of the regular performance evaluation session, and any special evaluation session as required by the Grantor, provided Grantee receives appropriate advance notice.

(D) Topics which may be discussed at any evaluation session may include, but are not limited to, Cable Service rate structures; Franchise Fee payments; liquidated damages; free or discounted Cable Services; application of new technologies; Cable System performance; Cable Services provided; programming offered; Subscriber complaints; privacy; amendments to this Franchise; judicial and FCC rulings; line extension policies; and the Grantor or Grantee's rules; provided that nothing in this Subsection shall be construed as requiring the renegotiation of this Franchise.

(E) During evaluations under this Subsection, Grantee shall fully cooperate with the Grantor and shall provide such information and documents as the Grantor may reasonably require to perform the evaluation.

4.9 Late Fees

(A) For purposes of this Subsection, any assessment, charge, cost, fee or sum, however characterized, that the Grantee imposes upon a Subscriber solely for late payment of a bill is a late fee and shall be applied in accordance with the City's Customer Service Standards, as the same may be amended from time to time by the City Council acting by ordinance or resolution, or as the same may be superseded by legislation or final court order.

(B) Nothing in this Subsection shall be deemed to create, limit or otherwise affect the ability of the Grantee, if any, to impose other assessments, charges, fees or sums other than those permitted by this Subsection, for the Grantee's other services or activities it performs in compliance with Applicable Law, including FCC law, rule or regulation.

(C) The Grantee's late fee and disconnection policies and practices shall be consistent with Applicable Law.

4.10 Force Majeure

In the event Grantee is prevented or delayed in the performance of any of its obligations under this Franchise Agreement by reason beyond the control of Grantee, Grantee shall have a reasonable time, under the circumstances, to perform the affected obligation under this Franchise Agreement or to procure a substitute for such obligation which is satisfactory to the City. Those conditions which are not within the control of Grantee include, but are not limited to, natural disasters, civil disturbances, work stoppages or labor disputes, power outages, telephone network outages, and severe or unusual weather conditions which have a direct and substantial impact on the Grantee's ability to provide Cable Services in the City and which was not caused and could not have been avoided by the Grantee which used its best efforts in its operations to avoid such results.

If Grantee believes that a reason beyond its control has prevented or delayed its compliance with the terms of this Franchise Agreement, Grantee shall provide documentation as reasonably required by the City to substantiate the Grantee's claim. If Grantee has not yet cured the deficiency, Grantee shall also provide the City with its proposed plan for remediation, including the timing for such cure.

SECTION 5. FINANCIAL AND INSURANCE REQUIREMENTS

5.1 Indemnification

(A) General Indemnification. Grantee shall indemnify, defend and hold the City, its officers, officials, boards, commissions, agents and employees, harmless from any action or claim for injury, damage, loss, liability, cost or expense, including court and appeal costs and reasonable attorneys' fees or reasonable expenses, arising from any casualty or accident to Person or property, including, without limitation, copyright infringement, defamation, and all other damages in any way arising out of, or by reason of, any construction, excavation, operation, maintenance, reconstruction, or any other act done under this Franchise, by or for Grantee, its agents, or its employees, or by reason of any neglect or omission of Grantee. Grantee shall consult and cooperate with the City while conducting its defense of the City. Grantee shall not be obligated to indemnify the City to the extent of the City's negligence or willful misconduct.

(B) Indemnification for Relocation. Grantee shall indemnify the City for any damages, claims, additional costs or reasonable expenses assessed against, or payable by, the City arising out of, or resulting from, directly or indirectly, Grantee's failure to remove, adjust or relocate any of its facilities in the Rights-of-Way in a timely manner in accordance with any relocation required by the City.

(C) Additional Circumstances. Grantee shall also indemnify, defend and hold the City harmless for any claim for injury, damage, loss, liability, cost or expense, including court and appeal costs and reasonable attorneys' fees or reasonable expenses in any way arising out of:

(1) Damages arising out of any failure by Grantee to secure consents from the owners, authorized distributors, or licensees/licensors of programs to be delivered by the Cable System, whether or not any act or omission complained of is authorized, allowed or prohibited by this Franchise.

(D) Procedures and Defense. If a claim or action arises, the City or any other indemnified party shall promptly tender the defense of the claim to Grantee, which defense shall be at Grantee's expense. The City may participate in the defense of a claim, but if Grantee provides a defense at Grantee's expense, then Grantee shall not be liable for any attorneys' fees, expenses or other costs that the City may incur if it chooses to participate in the defense of a claim, unless and until separate representation as described below in Subsection 5.1(F) is required. In that event the provisions of Subsection 5.1(F) shall govern Grantee's responsibility for the City's attorney's fees, expenses or other costs. In any event, Grantee may not agree to any settlement of claims affecting the City without the City's approval.

(E) Non-waiver. The fact that Grantee carries out any activities under this Franchise through independent contractors shall not constitute an avoidance of or defense to Grantee's duty of defense and indemnification under this Subsection.

(F) Expenses. If separate representation to fully protect the interests of both parties is or becomes necessary, such as a conflict of interest between the City and the counsel selected by Grantee to represent the City, Grantee shall pay, from the date such separate representation is required forward, all reasonable expenses incurred by the City in defending itself with regard to any action, suit or proceeding indemnified by Grantee. Provided, however, that in the event that such separate representation is or becomes necessary, and the City desires to hire counsel or any other outside experts or consultants and desires Grantee to pay those expenses, then the City shall be required to obtain Grantee's consent to the engagement of such counsel, experts or consultants, such consent not to be unreasonably withheld. The City's expenses shall include all reasonable out of pocket expenses, such as consultants' fees, and shall also include the reasonable value of any services rendered by the City Attorney or his/her assistants or any employees of the City or its agents but shall not include outside attorneys' fees for services that are unnecessarily duplicative of services provided the City by Grantee.

5.2 Insurance

(A) Grantee shall maintain in full force and effect at its own cost and expense each of the following policies of insurance, but in no event shall occurrence basis minimum limits be less than provided for by C.R.S. § 24-10-114(1)(b):

(1) Commercial General Liability insurance with limits of no less than $2 million per occurrence and $5 million general aggregate. Coverage shall be at least as broad as that provided by ISO CG 00 01 1/96 or its equivalent and include severability of interests. Such insurance shall name the City, its officers, officials and employees as additional insureds per ISO CG 2026 or its equivalent. There shall be a waiver of subrogation and rights of recovery against the City, its officers, officials and employees. Coverage shall apply as to claims between insureds on the policy, if applicable.

(2) Commercial Automobile Liability insurance with minimum combined single limits of $1 million each occurrence with respect to each of Grantee's owned, hired and non-owned vehicles assigned to or used in the operation of the Cable System in the City. The policy shall contain a severability of interests provision.

(3) Statutory workers' compensation and employer's liability insurance in an amount of $1 million dollars each accident/disease/policy limit.

(B) The insurance shall not be canceled or materially changed so as to be out of compliance with these requirements without thirty (30) days' written notice first provided to the City, via certified mail, and thirty (30) days' notice for nonpayment of premium. If the insurance is canceled or materially altered so as to be out of compliance with the requirements of this Subsection within the term of this Franchise, Grantee shall provide a replacement policy. Grantee agrees to maintain continuous uninterrupted insurance coverage, in at least the amounts required,

for the duration of this Franchise and, in the case of the Commercial General Liability, for at least one (1) year after expiration of this Franchise.

5.3 Deductibles and Certificates of Insurance

Any deductible of the policies shall not in any way limit Grantee's liability to the City.

(A) Endorsements.

(1) All policies shall contain, or shall be endorsed so that:

(a) The City, its officers, officials, boards, commissions, employees and agents are to be covered as, and have the rights of, additional insureds with respect to liability arising out of activities performed by, or on behalf of, Grantee under this Franchise or Applicable Law, or in the construction, operation or repair, or ownership of the Cable System;

(b) Grantee's insurance coverage shall be primary insurance with respect to the City, its officers, officials, boards, commissions, employees and agents. Any insurance or self-insurance maintained by the City, its officers, officials, boards, commissions, employees and agents shall be in excess of the Grantee's insurance and shall not contribute to it; and

(c) Grantee's insurance shall apply separately to each insured against whom a claim is made or lawsuit is brought, except with respect to the limits of the insurer's liability.

(B) Acceptability of Insurers. The insurance obtained by Grantee shall be placed with insurers with a Best's rating of no less than "A VII."

(C) Verification of Coverage. The Grantee shall furnish the City with certificates of insurance and endorsements or a copy of the page of the policy reflecting blanket additional insured status. The certificates and endorsements for each insurance policy are to be signed by a Person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements for each insurance policy are to be on standard forms or such forms as are consistent with standard industry practices.

(D) Self-Insurance. In the alternative to providing a certificate of insurance to the City certifying insurance coverage as required above, Grantee may provide self-insurance in the same amount and level of protection for Grantee and the City, its officers, agents and employees as otherwise required under this Section. The adequacy of self-insurance shall be subject to the periodic review and approval of the City.

5.4 Letter of Credit

(A) If there is a claim by the City of an uncured breach by Grantee of a material provision of this Franchise or pattern of repeated violations of any provision(s) of this Franchise,

then the City may require and Grantee shall establish and provide within thirty (30) days from receiving notice from the City, to the City as security for the faithful performance by Grantee of all of the provisions of this Franchise, a letter of credit from a financial institution satisfactory to the City in the amount of $25,000.

(B) In the event that Grantee establishes a letter of credit pursuant to the procedures of this Section, then the letter of credit shall be maintained until the allegations of the uncured breach have been resolved.

(C) As an alternative to the provision of a letter of credit to the City as set forth in Subsections 5.4(A) and (B), above, if the City is a member of CCUA, and if Grantee provides a Letter of Credit to CCUA in an amount agreed to between Grantee and CCUA for the benefit of its members, in order to collectively address claims reference in Subsection 5.4(A), Grantee shall not be required to provide a separate letter of credit to the City.

(D) After completion of the procedures set forth in Subsection 13.1 or other applicable provisions of this Franchise, the letter of credit may be drawn upon by the City for purposes including, but not limited to, the following:

(1) Failure of Grantee to pay the City sums due under the terms of this Franchise;

(2) Reimbursement of costs borne by the City to correct Franchise violations not corrected by Grantee;

(3) Monetary remedies or damages assessed against Grantee due to default or breach of Franchise requirements; and,

(4) Failure to comply with the Customer Service Standards of the City, as the same may be amended from time to time by the City Council acting by ordinance or resolution.

(E) The City shall give Grantee written notice of any withdrawal under this Subsection upon such withdrawal. Within seven (7) days following receipt of such notice, Grantee shall restore the letter of credit to the amount required under this Franchise.

(F) Grantee shall have the right to appeal to the City Council for reimbursement in the event Grantee believes that the letter of credit was drawn upon improperly. Grantee shall also have the right of judicial appeal if Grantee believes the letter of credit has not been properly drawn upon in accordance with this Franchise. Any funds the City erroneously or wrongfully withdraws from the letter of credit shall be returned to Grantee with interest, from the date of withdrawal at a rate equal to the prime rate of interest as quoted in the Wall Street Journal.

SECTION 6. CUSTOMER SERVICE

6.1 Customer Service Standards

Grantee shall comply with Customer Service Standards of the City, as the same may be amended from time to time by the City Council in its sole discretion acting by ordinance or resolution. Any requirement in Customer Service Standards for a "local" telephone number may be met by the provision of a toll-free number. The Customer Services Standards in effect as of the Effective Date of this Franchise are attached as **Exhibit B**. Grantee reserves the right to challenge any customer service standards which it believes is inconsistent with its contractual rights under this Franchise.

6.2 Subscriber Privacy

Grantee shall fully comply with any provisions regarding the privacy rights of Subscribers contained in federal or State Law.

6.3 Subscriber Contracts

Grantee shall not enter into a contract with any Subscriber which is in any way inconsistent with the terms of this Franchise Agreement, or any Exhibit hereto, or the requirements of any applicable Customer Service Standard. Upon request, Grantee will provide to the City a sample of the Subscriber contract or service agreement then in use.

6.4 Advance Notice to City

The Grantee shall use reasonable efforts to furnish information provided to Subscribers or the media in the normal course of business to the City in advance.

6.5 Identification of Local Franchise Authority on Subscriber Bills

Within sixty (60) days after written request from the City, Grantee shall identify the City on Subscriber bills to identify where a Subscriber may call to address escalated complaints.

SECTION 7. REPORTS AND RECORDS

7.1 Open Records

Grantee shall manage all of its operations in accordance with a policy of keeping its documents and records open and accessible to the City. The City, including the City's auditors or their authorized representatives, shall have access to, and the right to inspect any books or records of Grantee, its parent corporations and Affiliates which are reasonably related to the administration or enforcement of the terms of this Franchise Agreement or Applicable Law. Grantee shall not deny the City access to any of Grantee's records on the basis that Grantee's records are under the control of any parent corporation, Affiliate or a third party. The City may, in writing, request copies of any such records or books and Grantee shall provide such copies within thirty (30) days of the

transmittal of such request. One (1) copy of all reports and records required under this or any other Subsection of this Franchise Agreement or Applicable Law shall be furnished to the City, at the sole expense of Grantee. If the requested books and records are too voluminous, or for security reasons cannot be copied or removed, then Grantee may request, in writing within ten (10) days, that the City inspect them at Grantee's local offices. If any books or records of Grantee are not kept in a local office and not made available in copies to the City upon written request as set forth above, and if the City determines that an examination of such records is necessary or appropriate for the performance of any of the City's duties, administration or enforcement of this Franchise Agreement, then all reasonable travel and related expenses incurred in making such examination shall be paid by Grantee.

7.2 Confidentiality

The City agrees to treat as confidential any books or records that constitute proprietary or confidential information under federal or State law, to the extent Grantee makes the City aware of such confidentiality. Grantee shall be responsible for clearly and conspicuously stamping the word "Confidential" on each page that contains confidential or proprietary information, and shall provide a brief written explanation as to why such information is confidential under State or federal law. If the City believes it must release any such confidential books and records in the course of enforcing this Franchise, or for any other reason, it shall advise Grantee in advance so that Grantee may take appropriate steps to protect its interests. If the City receives a demand from any Person for disclosure of any information designated by Grantee as confidential, the City shall, so far as consistent with Applicable Law, advise Grantee and provide Grantee with a copy of any written request by the party demanding access to such information within a reasonable time. Until otherwise ordered by a court or agency of competent jurisdiction, the City agrees that, to the extent permitted by State and federal law, it shall deny access to any of Grantee's books and records marked confidential as set forth above to any Person. Grantee shall reimburse the City for all reasonable costs and attorneys' fees incurred in any legal proceedings pursued under this Section.

7.3 Records Required

(A) Grantee shall at all times maintain, and shall furnish to the City upon thirty (30) days' written request and subject to Applicable Law:

(1) A complete set of maps showing the exact location of all Cable System equipment and facilities in the Public Right-of-Way, but excluding detail on proprietary electronics contained therein and Subscriber drops. As-built maps including proprietary electronics shall be available at Grantee's offices for inspection by the City's authorized representative(s) or agent(s) and made available to such during the course of technical inspections as reasonably conducted by the City. These maps shall be certified as accurate by an appropriate representative of the Grantee;

(2) A copy of all FCC filings on behalf of Grantee, its parent corporations or Affiliates which relate to the operation of the Cable System in the City;

(3) Current Subscriber Records and information;

(4) A log of Cable Services added or dropped, Channel changes, number of Subscribers added or terminated, and total homes passed for the previous twelve (12) months;

(5) A list of Cable Services, rates and Channel line-ups.

(B) Subject to Subsection 7.2, all information furnished to the City is public information, and shall be treated as such, except for information involving the privacy rights of individual Subscribers.

(C) Grantee shall maintain for a period of at least six (6) months those records listed in Section 11-6-6(d) of the Boulder Cable Code.

7.4 Annual Reports

Within sixty (60) days of written request, Grantee shall submit to the City a written report, in a form acceptable to the City, which shall include, but not necessarily be limited to, the following information:

(A) A Gross Revenue statement, as required by Subsection 3.5 of this Franchise Agreement;

(B) A summary of the previous year's activities in the development of the Cable System, including, but not limited to, Cable Services begun or discontinued during the reporting year, and the number of Subscribers for each class of Cable Service (*i.e.*, Basic, Digital Starter, and Premium);

(C) The number of homes passed, beginning and ending plant miles, any services added or dropped, and any technological changes occurring in the Cable System;

(D) A statement of planned construction, if any, for the then-current year;

(E) If the Grantee is a publicly traded company, a copy or hyperlink of the most recent annual report Grantee filed with the SEC or other governing body;

(F) A list of officers and members of Grantee's board of directors and its parent;

(G) An ownership report, indicating all persons who at the time of filing control or won an interest in the Franchise of ten percent or more;

(H) A report on the Cable System's technical test and measurements; and

(I) A summary of the number and type of Cable Services outages (an outage being a loss of sound or video on any signal or a significant deterioration of any signal affecting Subscribers) known by Grantee, specifying all details of each outage known to Grantee and the cause thereof.

7.5 Copies of Federal and State Reports

Within thirty (30) days of a written request, Grantee shall submit to the City copies of all pleadings, applications, notifications, communications and documents of any kind, submitted by Grantee or its parent corporation(s), to any federal, State or local courts, regulatory agencies and other government bodies if such documents directly relate to the operations of Grantee's Cable System within the City. Grantee shall not claim confidential, privileged or proprietary rights to such documents unless under federal, State, or local law such documents have been determined to be confidential by a court of competent jurisdiction, or a federal or State agency.

7.6 Complaint File and Reports

(A) Grantee shall keep an accurate and comprehensive file of any complaints regarding the Cable System, in a manner consistent with the privacy rights of Subscribers, and Grantee's actions in response to those complaints. These files shall remain available for viewing to the City during normal business hours at Grantee's local business office.

(B) Unless such requirement is waived by the City, on or before April 30, July 31, October 31 and January 31 of each year this Franchise Agreement is in effect and for one month thereafter, Grantee shall provide the City a quarterly executive summary in the form attached hereto as **Exhibit A**, which shall include the following information from the preceding quarter:

(1) A summary of service calls, identifying the number and nature of the requests and their disposition;

(2) A log of all service interruptions;

(3) A summary of customer complaints referred by the City to Grantee; and

(4) Such other information as reasonably requested by the City.

The Parties agree that the City's request for these summary reports shall remain effective, and need only be made once. Such request shall require the Grantee to continue to provide the reports quarterly, until further written notice from the City to the contrary.

7.7 Failure to Report/Maintain Records

The failure or neglect of Grantee to file any of the reports or filings required under this Franchise Agreement or such other reports as the City may reasonably request (not including clerical errors or errors made in good faith), or to keep any records required to be kept may, at the City's option, be deemed a breach of this Franchise Agreement.

7.8 False Statements

Any false or misleading statement or representation in any report required by this Franchise Agreement (not including clerical errors or errors made in good faith) may be deemed a material

breach of this Franchise Agreement and may subject Grantee to all remedies, legal or equitable, which are available to the City under this Franchise Agreement or otherwise.

SECTION 8. PROGRAMMING

8.1 Broad Programming Categories

Grantee shall provide or enable the provision of at least the following initial broad categories of programming to the extent such categories are reasonably available:

(A) Educational programming;

(B) Colorado news, weather & information;

(C) National and international news, weather, and information;

(D) Colorado sports;

(E) National and international sports;

(F) General entertainment (including movies);

(G) Children/family-oriented;

(H) Arts, culture, and performing arts;

(I) Foreign language;

(J) Science/documentary; and

(K) Public, Educational and Government Access, to the extent required by this Franchise Agreement.

8.2 Deletion or Reduction of Broad Programming Categories

(A) Grantee shall not delete or so limit as to effectively delete any broad category of programming within its control without the prior written consent of the City.

(B) In the event of a modification proceeding under federal law, the mix and quality of Cable Services provided by Grantee on the Effective Date shall be deemed the mix and quality of Cable Services required under this Franchise Agreement throughout its term.

8.3 Obscenity

Grantee shall not transmit, or permit to be transmitted over any Channel subject to its editorial control, any programming which is obscene under, or violates any provision of,

Applicable Law relating to obscenity, and is not protected by the Constitution of the United States. Grantee shall be deemed to have transmitted or permitted a transmission of obscene programming only if the Federal Communications Commission or a court of competent jurisdiction has found that any of Grantee's officers or employees or agents have permitted programming which is obscene under, or violative of, any provision of Applicable Law relating to obscenity, and is otherwise not protected by the Constitution of the United States, to be transmitted over any Channel subject to Grantee's editorial control. Grantee shall comply with all relevant provisions of federal law relating to obscenity.

8.4 Parental Control Device

Upon request by any Subscriber, Grantee shall make available a parental control or lockout device, traps or filters to enable a Subscriber to control access to both the audio and video portions of any or all Channels. Grantee shall inform its Subscribers of the availability of the lockout device at the time of their initial subscription and periodically thereafter. Any device offered shall be at a rate, if any, in compliance with Applicable Law.

8.5 Continuity of Service Mandatory

(A) It shall be the right of all Subscribers to continue to receive Cable Service from Grantee insofar as their financial and other obligations to Grantee are honored. The Grantee shall act so as to ensure that all Subscribers receive continuous, uninterrupted Cable Service regardless of the circumstances. For the purposes of this Subsection, "uninterrupted" does not include short-term outages of the Cable System for maintenance or testing.

(B) In the event of a change of grantee, or in the event a new Cable Operator acquires the Cable System in accordance with this Franchise Agreement, Grantee shall cooperate with the City, new franchisee or Cable Operator in maintaining continuity of Cable Service to all Subscribers. During any transition period, Grantee shall be entitled to the revenues for any period during which it operates the Cable System, and shall be entitled to reasonable costs for its services when it no longer operates the Cable System.

(C) In the event Grantee fails to operate the Cable System for four (4) consecutive days without prior approval of the Manager, or without just cause, the City may, at its option, operate the Cable System itself or designate another Cable Operator until such time as Grantee restores service under conditions acceptable to the City or a permanent Cable Operator is selected. If the City is required to fulfill this obligation for Grantee, Grantee shall reimburse the City for all reasonable costs or damages that are the result of Grantee's failure to perform.

8.6 Services for People With Disabilities

Grantee shall comply with the Americans with Disabilities Act and any amendments thereto.

SECTION 9. ACCESS

9.1 Designated Access Providers

(A) The City shall have the sole and exclusive responsibility for identifying the Designated Access Providers, including itself, for Access purposes, to control and manage the use of any Access Facilities provided by Grantee under this Franchise Agreement. As used in this Section, such "Access Facilities" includes the Channels, services, facilities, equipment, technical components or financial support provided under this Franchise Agreement, which is used or useable by and for Public Access, Educational Access, and Government Access ("PEG" or "PEG Access").

(B) Grantee shall cooperate with City in City's efforts to provide Access programming but will not be responsible or liable for any damages resulting from a claim in connection with the programming placed on the Access Channels by the Designated Access Provider.

9.2 Channel Capacity and Use

(A) On the Effective Date, Grantee shall make available to City 5 Downstream Channels for PEG use as provided for in this Section.

(B) Grantee shall have the right to temporarily use any Public Access or Government Access Channel, or portion thereof, within 60 days after a written request for such temporary use is submitted to City, if such Public Access or Government Access Channel is not fully utilized. A Public Access or Government Access Channel shall be considered "fully utilized" if substantially unduplicated programming is delivered over it more than an average of thirty-eight (38) hours per week over a calendar year. Programming that is repeated on a Public Access or Government Access Channel up to two times per day shall be considered "substantially unduplicated programming." Character-generated programming shall be included for purposes of this Subsection but may be counted towards the total average hours only with respect to two (2) Channels provided to the City. If a Public Access or Government Access Channel will be used by Grantee in accordance with the terms of this Subsection, the institution to which the Public Access or Government Access Channel has been allocated shall have the right to require the return of the Public Access or Government Access Channel or portion thereof. The City shall request return of such Public Access or Government Access Channel space by delivering written notice to Grantee stating that the institution is prepared to fully utilize the Public Access or Government Access Channel, or portion thereof, in accordance with this Subsection. In such event, the Public Access or Government Access Channel or portion thereof shall be returned to such institution within 60 days after receipt by Grantee of such written notice.

(C) Standard Definition ("SD") Digital Access Channels.

(1) Grantee shall provide four (4) Activated Downstream Channels for PEG Access use in a standard definition ("SD") digital format in Grantee's Basic Service ("SD Access Channel"). Grantee shall carry all components of the SD Access Channel Signals provided by a Designated Access Provider including, but not limited to, closed captioning,

stereo audio and other elements associated with the Programming. A Designated Access Provider shall be responsible for providing the SD Access Channel Signal in an SD format to the Demarcation Point at the designated point of origination for the SD Access Channel. Grantee shall transport and distribute the SD Access Channel signal on its Cable System and shall not unreasonably discriminate against SD Access Channels with respect to accessibility, functionality and to the application of any applicable Federal Communications Commission Rules & Regulations, including without limitation the FCC's Subpart K Channel signal standards.

(2) With respect to signal quality, Grantee shall not be required to carry an SD Access Channel in a higher quality format than that of the SD Access Channel signal delivered to Grantee, but Grantee shall distribute the SD Access Channel signal without degradation. Upon reasonable written request by a Designated Access Provider, Grantee shall verify signal delivery to Subscribers with the Designated Access Provider, consistent with the requirements of this Subsection 9.2(C).

(3) Grantee shall be responsible for costs associated with the transmission of SD Access signals on its side of the Demarcation Point. The City or Designated Access Provider shall be responsible for costs associated with SD Access signal transmission on its side of the Demarcation Point.

(4) SD Access Channels may require SD Subscribers to buy or lease special equipment, available to all SD Subscribers. Grantee is not required to provide free SD equipment to Subscribers, including complimentary government and educational accounts, nor modify its equipment or pricing policies in any manner.

(D) High Definition ("HD") Digital Access Channels.

(1) Grantee shall maintain 1 HD Access Channel, for which the City may provide Access Channel signals in HD format to the Demarcation Point at the designated point of origination for the Access Channel.

(2) The City shall be responsible for providing the HD Access Channel signal in an HD digital format to the Demarcation Point at the designated point of origination for the HD Access Channel. For purposes of this Franchise Agreement, an HD signal refers to a television signal delivering picture resolution of either 720 or 1080, or such other resolution in this same range that Grantee utilizes for other similar non-sport, non-movie programming channels on the Cable System, whichever is greater.

(3) The City will maintain a minimum of 5 hours per-day, five days per-week of HD PEG programming available for each HD Access Channel.

(4) Grantee shall transport and distribute the HD Access Channel signal on its Cable System and shall not unreasonably discriminate against HD Access Channels with respect to accessibility, functionality and to the application of any applicable Federal Communications Commission Rules & Regulations, including without limitation the

FCC's Subpart K Channel signal standards. With respect to signal quality, Grantee shall not be required to carry a HD Access Channel in a higher quality format than that of the HD Access Channel signal delivered to Grantee, but Grantee shall distribute the HD Access Channel signal without degradation. Grantee shall carry all components of the HD Access Channel signals provided by the Designated Access Provider including, but not limited to, closed captioning, stereo audio and other elements associated with the Programming. Upon reasonable written request by the City, Grantee shall verify signal delivery to Subscribers with the City, consistent with the requirements of this Subsection 9.2(D).

(5) HD Access Channels may require Subscribers to buy or lease special equipment, available to all Subscribers, and subscribe to those tiers of Cable Service, upon which HD channels are made available. Grantee is not required to provide free HD equipment to Subscribers, including complimentary government and educational accounts, nor modify its equipment or pricing policies in any manner.

(6) The City or any Designated Access Provider is responsible for acquiring all equipment necessary to produce programming in HD.

(7) Grantee shall cooperate with the City to procure and provide, at City's cost, all necessary transmission equipment from the Designated Access Provider channel origination point, at Grantee's headend and through Grantee's distribution system, in order to deliver the HD Access Channels. The City shall be responsible for the costs of all transmission equipment, including HD modulator and demodulator, and encoder or decoder equipment, and multiplex equipment, required in order for Grantee to receive and distribute the HD Access Channel signal, or for the cost of any resulting upgrades to the video return line. The City and Grantee agree that such expense of acquiring and installing the transmission equipment or upgrades to the video return line qualifies as a capital cost for PEG Facilities within the meaning of the Cable Act 47 U.S.C.A. § 542(g)(20)(C), and therefore is an appropriate use of revenues derived from those PEG Capital fees provided for in this Franchise Agreement.

(E) Grantee shall simultaneously carry the one (1) HD Access Channels provided for in Subsection 9.2(D) in high definition format on the Cable System, in addition to simultaneously carrying in standard definition format the SD Access Channels provided pursuant to Subsection 9.2(C).

(F) There shall be no restriction on Grantee's technology used to deploy and deliver SD or HD signals so long as the requirements of the Franchise Agreement are otherwise met. Grantee may implement HD carriage of the PEG channel in any manner (including selection of compression, utilization of IP, and other processing characteristics) that produces a signal quality for the consumer that is reasonably comparable and functionally equivalent to similar commercial HD channels carried on the Cable System. In the event the City believes that Grantee fails to meet this standard, City will notify Grantee of such concern, and Grantee will respond to any complaints in a timely manner.

9.3 Access Channel Assignments

Grantee will use reasonable efforts to minimize the movement of SD and HD Access Channel assignments. Grantee shall also use reasonable efforts to institute common SD and HD Access Channel assignments among the local governments served by the same Headend as City for compatible Access programming, for example, assigning all Educational Access Channels programmed by higher education organizations to the same Channel number. In addition, Grantee will make reasonable efforts to locate HD Access Channels provided pursuant to Subsection 9.2(D) in a location on its HD Channel line-up that is easily accessible to Subscribers.

9.4 Relocation of Access Channels

Grantee shall provide City and all Subscribers within City with a minimum of sixty (60) days' notice, and use its best efforts to provide one hundred and twenty (120) days' notice, prior to the time Public, Educational, and Government Access Channel designations are changed.

9.5 Support for Access Costs

During the term of this Franchise, within one hundred and twenty (120) days of a written request from the City, Grantee shall provide to the City up to 0.48% of Grantee's Gross Revenues per month (the "Access Contribution") to be used solely for capital costs related to Public, Educational and Governmental Access, or as may be permitted by Applicable Law. Grantee shall make Access Contribution payments quarterly, following the effective date of this Franchise for the preceding quarter ending March 31, June 30, September 30, and December 31. Each payment shall be due and payable no later than forty-five (45) days following the end of the quarter. The City shall have sole discretion to allocate the expenditure of such payments for any capital costs related to Access.

9.6 Access Support Not Franchise Fees

Grantee agrees that capital support for Access Costs arising from or relating to the obligations set forth in this Section shall in no way modify or otherwise affect Grantee's obligations to pay Franchise Fees to City. Grantee agrees that although the sum of Franchise Fees plus the payments set forth in this Section may total more than five (5%) of Grantee's Gross Revenues in any twelve (12)-month period, the additional commitments shall not be offset or otherwise credited in any way against any Franchise Fee payments under this Franchise Agreement so long as such support is used for capital Access purposes consistent with this Franchise Agreement and Applicable Law.

9.7 Access Channels on Basic Service or Lowest Priced HD Service Tier

All SD Access Channels under this Franchise Agreement shall be included by Grantee, without limitation, as part of Basic Service. All HD Access Channels under this Franchise Agreement shall be included by Grantee, without limitation, as part of the lowest priced tier of HD Cable Service upon which Grantee provides HD programming content.

9.8 Change In Technology

In the event Grantee makes any change in the Cable System and related equipment and Facilities or in Grantee's signal delivery technology, which directly or indirectly affects the signal quality or transmission of Access services or programming, Grantee shall at its own expense take necessary technical steps or provide necessary technical assistance, including the acquisition of all necessary equipment, and full training of City's Access personnel to ensure that the capabilities of Access services are not diminished or adversely affected by such change. If the City implements a new video delivery technology that is currently offered and can be accommodated on the Grantee's local Cable System then the same provisions above shall apply. If the City implements a new video delivery technology that is not currently offered or that cannot be accommodated by the Grantee's local Cable System, then the City shall be responsible for acquiring all necessary equipment, facilities, technical assistance, and training to deliver the signal to the Grantee's headend for distribution to subscribers.

9.9 Technical Quality

Grantee shall maintain all upstream and downstream Access services and Channels on its side of the Demarcation Point at the same level of technical quality and reliability required by this Franchise Agreement and all other Applicable Law. Grantee shall provide routine maintenance for all transmission equipment on its side of the Demarcation Point, including modulators, decoders, multiplex equipment, and associated cable and equipment necessary to carry a quality signal to and from City's facilities for the Access Channels provided under this Franchise Agreement, including the business class broadband equipment and services necessary for the video on demand and streaming service described in Subsection 9.2. Grantee shall also provide, if requested in advance by the City, advice and technical expertise regarding the proper operation and maintenance of transmission equipment on the City's side of the Demarcation Point. The City shall be responsible for all initial and replacement costs of all HD modulator and demodulator equipment, web-based video on demand servers and web-based video streaming servers. The City shall be responsible, at its own expense, to replace any of the Grantee's equipment that is damaged by any negligent or intentional act or omission by City staff. The Grantee shall be responsible, at its own expense, to replace any of the Grantee's equipment that is damaged by any negligent or intentional act or omission of Grantee's staff. The City will be responsible for the cost of repairing or replacing any HD PEG Access and web-based video on demand transmission equipment that Grantee maintains that is used exclusively for transmission of the City's or its Designated Access Providers' HD Access programming.

9.10 Access Cooperation

City may designate any other jurisdiction which has entered into an agreement with Grantee or an Affiliate of Grantee based upon this Franchise Agreement, any CCUA member, the CCUA, or any combination thereof to receive any Access benefit due City hereunder, or to share in the use of Access Facilities hereunder. The purpose of this Subsection shall be to allow cooperation in the use of Access and the application of any provision under this Section 9 as City in its sole discretion deems appropriate, and Grantee shall cooperate fully with, and in, any such arrangements by City.

9.11 Return Lines/Access Origination

(A) Grantee shall continuously maintain the previously constructed return lines throughout the Term of the Franchise Agreement, in order to enable the distribution of Access programming to Subscribers on the Access Channels; provided, however, that Grantee's maintenance obligations with respect to a particular location shall cease if it is no longer used by the City to originate Access programming.

(B) Grantee shall construct and maintain new Fiber Optic return lines to the Headend from production facilities of new or relocated Designated Access Providers delivering Access programming to Subscribers as requested in writing by the City. All actual construction costs incurred by Grantee from the nearest interconnection point to the Designated Access Provider shall be paid by the City or the Designated Access Provider. New return lines shall be completed within 1 year from the request of the City or its Designated Access Provider, or as otherwise agreed to by the parties. If an emergency situation necessitates movement of production facilities to a new location, the Parties shall work together to complete the new return line as soon as reasonably possible.

SECTION 10. GENERAL PUBLIC RIGHT-OF-WAY USE AND CONSTRUCTION

10.1 Right to Construct

Subject to Applicable Law, regulations, rules, resolutions and ordinances of the City and the provisions of this Franchise, Grantee may perform all construction in the Rights-of-Way for any facility needed for the maintenance or extension of Grantee's Cable System.

10.2 Public Right-of-Way Meetings

Grantee will regularly attend and participate in meetings of the City, of which the Grantee is made aware, regarding Public Right-of-Way issues that may impact the Cable System.

10.3 Joint Trenching/Boring Meetings

Grantee will regularly attend and participate in planning meetings of the City, of which the Grantee is made aware, to anticipate joint trenching and boring. Whenever it is possible and reasonably practicable to joint trench or share bores or cuts, Grantee shall work with other providers, licensees, permittees, and franchisees so as to reduce so far as possible the number of Public Right-of-Way cuts within the City.

10.4 General Standard

Grantee shall construct, operate and maintain the Cable System subject to the supervision of all of the authorities of the City who have jurisdiction in such matters and in strict compliance with all Applicable Law, including specifically the Boulder Cable Code and the City's Design and Construction Standards. All work authorized and required hereunder shall be done in a safe, thorough and workmanlike manner. All installations of equipment shall be permanent in nature,

durable and installed in accordance with industry standard engineering practices.

10.5 Permits Required for Construction

Prior to doing any work in the Public Right-of Way or other public property, Grantee shall apply for, and obtain, all required permits from the City. As part of the permitting process, the City may impose such conditions and regulations including but not limited to those necessary for the purpose of protecting any structures in such Public Rights-of-Way, proper restoration of such Public Rights-of-Way and structures, the protection of the public, and the continuity of pedestrian or vehicular traffic. Such conditions may also include the provision of a construction schedule and maps showing the location of the facilities to be installed in the Public Right-of-Way. Grantee shall pay all applicable fees for the requisite City permits received by Grantee.

10.6 Emergency Permits

In the event that emergency repairs are necessary, Grantee shall immediately notify the City of the need for such repairs. Grantee may initiate such emergency repairs, and shall apply for appropriate permits within forty-eight (48) hours after discovery of the emergency.

10.7 Compliance with Applicable Codes

(A) City Construction Codes. Grantee shall comply with all applicable City construction codes, including, without limitation, the International Building Code and other building codes, the International Fire Code, the National Electrical Code, the Electronic Industries Association Standard for Physical Location and Protection of Below-Ground Fiber Optic Cable Plant, and zoning codes and regulations, and the City's Design and Construction Standards.

(B) Tower Specifications. Antenna supporting structures (towers) shall be designed for the proper loading as specified by the Electronics Industries Association (EIA), as those specifications may be amended from time to time. Antenna supporting structures (towers) shall be painted, lighted, erected and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration and all Applicable Law.

(C) Safety Codes. Grantee shall comply with all federal, State and City safety requirements, rules, regulations, laws and practices, and employ all necessary devices as required by Applicable Law during construction, operation and repair of its Cable System. By way of illustration and not limitation, Grantee shall comply with the National Electric Code, National Electrical Safety Code and Occupational Safety and Health Administration (OSHA) Standards.

10.8 GIS Mapping

Grantee shall comply with any generally applicable ordinances, rules and regulations of the City regarding geographic information mapping systems for users of the Public Rights-of-Way.

10.9 Minimal Interference

Work in the Public Right-of-Way, on other public property, near public property, or on or near private property shall be done in a manner that causes the least interference with the rights and reasonable convenience of property owners and residents. Grantee's Cable System shall be constructed and maintained in such manner as not to interfere with sewers, water pipes, or any other property of the City, or with any other pipes, wires, conduits, pedestals, structures, or other facilities that may have been laid in the Public Rights-of-Way by, or under, the City's authority. The Grantee's Cable System shall be located, erected and maintained so as not to endanger or interfere with the lives of Persons, or to interfere with new improvements the City may deem proper to make or to unnecessarily hinder or obstruct the free use of the Public Rights-of-Way or other public property, and shall not interfere with the travel and use of public places by the public during the construction, repair, operation or removal thereof, and shall not obstruct or impede traffic. In the event of such interference, the City may require the removal or relocation of Grantee's lines, cables, equipment and other appurtenances from the property in question at Grantee's expense.

10.10 Prevent Injury/Safety

Grantee shall provide and use any equipment and facilities necessary to control and carry Grantee's signals so as to prevent injury to the City's property or property belonging to any Person. Grantee, at its own expense, shall repair, renew, change and improve its facilities to keep them in good repair, and safe and presentable condition. All excavations made by Grantee in the Public Rights-of-Way shall be properly safeguarded for the prevention of accidents by the placement of adequate barriers, fences or boarding, the bounds of which, during periods of dusk and darkness, shall be clearly designated by warning lights.

10.11 Hazardous Substances

(A) Grantee shall comply with all Applicable Law concerning hazardous substances relating to Grantee's Cable System in the Public Rights-of-Way.

(B) Upon reasonable notice to Grantee, the City may inspect Grantee's facilities in the Public Rights-of-Way to determine if any release of hazardous substances has occurred, or may occur, from or related to Grantee's Cable System. In removing or modifying Grantee's facilities as provided in this Franchise Agreement, Grantee shall also remove all residue of hazardous substances related thereto.

(C) Grantee agrees to indemnify the City against any claims, costs, and expenses, of any kind, whether direct or indirect, incurred by the City arising out of a release of hazardous substances arising out of or related to Grantee's Cable System.

10.12 Locates

Prior to doing any work in the Public Right-of-Way, Grantee shall give appropriate notices to the City and to the notification association established in C.R.S. § 9-1.5-105, and as such may

be amended from time to time. Within forty-eight (48) hours after any City bureau or franchisee, licensee or permittee notifies Grantee of a proposed Public Right-of-Way excavation, Grantee shall, at Grantee's expense:

(A) Mark on the surface all of its located underground facilities within the area of the proposed excavation;

(B) Notify the excavator of any unallocated underground facilities in the area of the proposed excavation; or

(C) Notify the excavator that Grantee does not have any underground facilities in the vicinity of the proposed excavation.

10.13 Notice to Private Property Owners

Grantee shall give notice to private property owners of work on or adjacent to private property in accordance with the City's Customer Service Standards, as the same may be amended from time to time by the City Council acting by Ordinance or resolution.

10.14 Underground Construction and Use of Poles

(A) When required by Applicable Law, Grantee's Cable System shall be placed underground at Grantee's expense unless funding is generally available for such relocation to all users of the Public Rights-of-Way. Placing facilities underground does not preclude the use of ground-mounted appurtenances.

(B) Where electric, telephone, and other above-ground utilities are installed underground at the time of Cable System construction, or when all such wiring is subsequently placed underground, all Cable System lines shall also be placed underground with other wireline service at no expense to the City or Subscribers unless funding is generally available for such relocation to all users of the Public Rights-of-Way. Related Cable System equipment, such as pedestals, must be placed in accordance with the City's applicable code requirements and rules. In areas where either electric or telephone utility wiring is aerial, the Grantee may install aerial cable, except when a property owner or resident requests underground installation and agrees to bear the additional cost in excess of aerial installation.

(C) Grantee shall utilize existing poles and conduit wherever possible.

(D) In the event Grantee cannot obtain the necessary poles and related facilities pursuant to a pole attachment agreement, and only in such event, then it shall be lawful for Grantee to make all needed excavations in the Public Rights-of-Way for the purpose of placing, erecting, laying, maintaining, repairing, and removing poles, supports for wires and conductors, and any other facility needed for the maintenance or extension of Grantee's Cable System. All poles of Grantee shall be located as designated by the proper City authorities.

(E) This Franchise Agreement does not grant, give or convey to the Grantee the right

or privilege to install its facilities in any manner on specific utility poles or equipment of the City or any other Person. Copies of agreements for the use of poles, conduits or other utility facilities must be provided upon request by the City.

10.15 Undergrounding of Multiple Dwelling Unit Drops

In cases of single site Multiple Dwelling Units, Grantee shall minimize the number of individual aerial drop cables by installing multiple drop cables underground between the pole and Multiple Dwelling Unit where determined to be technologically feasible in agreement with the owners or owner's association of the Multiple Dwelling Units.

10.16 Burial Standards

(A) Depths. Unless otherwise required by Applicable Law, Grantee, and its contractors, shall comply with the City's Design and Construction Standards when burying lines.

(B) Timeliness. Cable drops installed by Grantee to residences shall be buried according to these standards within one calendar week of initial installation, or at a time mutually-agreed upon between the Grantee and the Subscriber. When freezing surface conditions prevent Grantee from achieving such timetable, Grantee shall apprise the Subscriber of the circumstances and the revised schedule for burial, and shall provide the Subscriber with Grantee's telephone number and instructions as to how and when to call Grantee to request burial of the line if the revised schedule is not met.

10.17 Cable Drop Bonding

Grantee shall ensure that all cable drops are properly bonded at the home, consistent with applicable code requirements.

10.18 Prewiring

Any ordinance or resolution of the City which requires prewiring of subdivisions or other developments for electrical and telephone service shall be construed to include wiring for Cable Systems.

10.19 Repair and Restoration of Property

(A) Notice of Damage. The Grantee shall protect public and private property from damage. If damage occurs, the Grantee shall promptly notify the property owner within twenty-four (24) hours in writing.

(B) Prompt Restoration. Whenever Grantee disturbs or damages any Public Right-of-Way, other public property or any private property, Grantee shall promptly restore the Public Right-of-Way or property to at least its prior condition, normal wear and tear excepted, at its own expense.

(C) Public Rights-of-Way and Other Public Property. Grantee shall warrant any restoration work performed by or for Grantee in the Public Right-of-Way or on other public property in accordance with Applicable Law. If restoration is not satisfactorily performed by the Grantee within a reasonable time, the City may, after prior notice to the Grantee, or without notice where the disturbance or damage may create a risk to public health or safety, cause the repairs to be made and recover the cost of those repairs from the Grantee. Within thirty (30) days of receipt of an itemized list of those costs, including the costs of labor, materials and equipment, the Grantee shall pay the City.

(D) Private Property. Upon completion of the work which caused any disturbance or damage, Grantee shall promptly commence restoration of private property, and will use best efforts to complete the restoration within seventy-two (72) hours, considering the nature of the work that must be performed. Grantee shall also perform such restoration in accordance with the City's Customer Service Standards, as the same may be amended from time to time by the City Council acting by ordinance or resolution.

10.20 Acquisition of Facilities

Upon Grantee's acquisition of Cable System-related facilities in any City Public Right-of-Way, or upon the addition to the City of any area in which Grantee owns or operates any such facility, Grantee shall, at the City's request, submit to the City a statement describing all such facilities involved, whether authorized by franchise, permit, license or other prior right, and specifying the location of all such facilities to the extent Grantee has possession of such information. Such Cable System-related facilities shall immediately be subject to the terms of this Franchise Agreement.

10.21 Discontinuing Use/Abandonment of Cable System Facilities

Whenever Grantee intends to discontinue using any facility within the Public Rights-of-Way, Grantee shall submit for the City's approval a complete description of the facility and the date on which Grantee intends to discontinue using the facility. Grantee may remove the facility or request that the City permit it to remain in place. Notwithstanding Grantee's request that any such facility remain in place, the City may require Grantee to remove the facility from the Public Right-of-Way or modify the facility to protect the public health, welfare, safety, and convenience, or otherwise serve the public interest. The City may require Grantee to perform a combination of modification and removal of the facility. Grantee shall complete such removal or modification in accordance with a schedule set by the City. Until such time as Grantee removes or modifies the facility as directed by the City, or until the rights to and responsibility for the facility are accepted by another Person having authority to construct and maintain such facility, Grantee shall be responsible for all necessary repairs and relocations of the facility, as well as maintenance of the Public Right-of-Way, in the same manner and degree as if the facility were in active use, and Grantee shall retain all liability for such facility. If Grantee abandons its facilities, the City may choose to use such facilities for any purpose whatsoever including without limitation access purposes.

10.22 Movement of Cable System Facilities for City Purposes

The City shall have the right to require Grantee to relocate, remove, replace, modify or disconnect Grantee's facilities and equipment located in the Rights-of-Way or on any other property of the City for public purposes, in the event of an emergency, or when the public health, safety or welfare requires such change (for example, without limitation, by reason of traffic conditions, public safety, Right-of-Way vacation, Right-of-Way construction, change or establishment of Right-of-Way grade, installation of sewers, drains, gas or water pipes, or any other types of structures or improvements by the City for public purposes). Such work shall be performed at the Grantee's expense. Except during an emergency, the City shall provide reasonable notice to Grantee, not to be less than forty-five (45) business days or as otherwise required by Applicable Law, and allow Grantee with the opportunity to perform such action. In the event of any capital improvement project exceeding $500,000 in expenditures by the City which requires the removal, replacement, modification or disconnection of Grantee's facilities or equipment, the City shall provide at least sixty (60) days' written notice to Grantee. Following notice by the City, Grantee shall relocate, remove, replace, modify or disconnect any of its facilities or equipment within any Right-of-Way, or on any other property of the City. If the City requires Grantee to relocate its facilities located within the Rights-of-Way, the City shall make a reasonable effort to provide Grantee with an alternate location within the Rights-of-Way. If funds are generally made available to users of the Rights-of-Way for such relocation, Grantee shall be entitled to its pro rata share of such funds.

If the Grantee fails to complete this work within the time prescribed and to the City's satisfaction, the City may cause such work to be done and bill the cost of the work to the Grantee, including all costs and expenses incurred by the City due to Grantee's delay. In such event, the City shall not be liable for any damage to any portion of Grantee's Cable System. Within thirty (30) days of receipt of an itemized list of those costs, the Grantee shall pay the City.

10.23 Movement of Cable System Facilities for Other Franchise Holders

If any removal, replacement, modification or disconnection of the Cable System is required to accommodate the construction, operation or repair of the facilities or equipment of another City franchise holder, Grantee shall, after at least thirty (30) days' advance written notice, take action to effect the necessary changes requested by the responsible entity. Grantee shall require that the costs associated with the removal or relocation be paid by the benefited party.

10.24 Temporary Changes for Other Permittees

At the request of any Person holding a valid permit and upon reasonable advance notice, Grantee shall temporarily raise, lower or remove its wires as necessary to permit the moving of a building, vehicle, equipment or other item. The expense of such temporary changes must be paid by the permit holder, and Grantee may require a reasonable deposit of the estimated payment in advance.

10.25 Reservation of City Use of Public Right-of-Way

Nothing in this Franchise Agreement shall prevent the City or public utilities owned, maintained or operated by public entities other than the City from constructing sewers; grading, paving, repairing or altering any Public Right-of-Way; laying down, repairing or removing water mains; or constructing or establishing any other public work or improvement. All such work shall be done, insofar as practicable, so as not to obstruct, injure or prevent the use and operation of Grantee's Cable System.

10.26 Tree Trimming

Subject to obtaining advance permission from the Manager, which shall not be unreasonably refused, Grantee may prune or cause to be pruned, using pruning practices approved by the City Forester, any tree that overhangs the City's Public Rights-of-Way so as to prevent the branches of such trees from coming into contact with the wires of the Cable System. At the option of the City, such trimming may be done by it for by Grantee, but in either case, at the expense of Grantee. Grantee shall comply with any general ordinance or regulations of the City regarding tree trimming. Except in emergencies, Grantee may not prune trees at a point below thirty (30) feet above sidewalk grade until one (1)-weeks' written notice has been given to the owner or occupant of the premises abutting the Public Right-of-Way in or over which the tree is growing. The owner or occupant of the abutting premises may prune such tree at their own expense during this one (1)-week period. If the owner or occupant fails to do so, Grantee may prune such tree at its own expense. For purposes of this subsection, emergencies exist when it is necessary to prune to protect the public or Grantee's facilities from imminent danger only.

10.27 Inspection of Construction and Facilities

The City may inspect any of Grantee's facilities, equipment or construction at any time upon at least twenty-four (24) hours' notice, or, in case of emergency, upon demand without prior notice. The City shall have the right to charge generally applicable inspection fees therefore. If an unsafe condition is found to exist, the City, in addition to taking any other action permitted under Applicable Law, may order Grantee, in writing, to make the necessary repairs and alterations specified therein forthwith to correct the unsafe condition by a reasonable time the City establishes. The City has the right to correct, inspect, administer and repair the unsafe condition if Grantee fails to do so without undue delay, and to charge Grantee therefore.

10.28 Stop Work

(A) On notice from the City that any work is being performed contrary to the provisions of this Franchise, or in an unsafe or dangerous manner as determined by the City, or in violation of the terms of any applicable permit, laws, regulations, ordinances, or standards, the work may immediately be stopped by the City.

(B) The stop work order shall:

(1) Be in writing;

(2) Be given to the Person doing the work, or posted on the work site;

(3) Be sent to Grantee by overnight delivery at the address given herein;

(4) Indicate the nature of the alleged violation or unsafe condition; and

(5) Establish conditions under which work may be resumed.

10.29 Work of Contractors and Subcontractors

Grantee's contractors and subcontractors shall be licensed and bonded in accordance with the City's ordinances, regulations and requirements. Work by contractors and subcontractors is subject to the same restrictions, limitations and conditions as if the work were performed by Grantee. Grantee shall be responsible for all work performed by its contractors and subcontractors and others performing work on its behalf as if the work were performed by it, and shall ensure that all such work is performed in compliance with this Franchise and other Applicable Law, and shall be jointly and severally liable for all damages and correcting all damage caused by them. It is Grantee's responsibility to ensure that contractors, subcontractors or other Persons performing work on Grantee's behalf are familiar with the requirements of this Franchise and other Applicable Law governing the work performed by them.

10.30 Transition to Subsequent Agreement

Subject to Applicable Law, if Grantee is no longer offering Cable Service in the Franchise Area, the Parties agree to negotiate in good faith to execute an agreement enabling Grantee to maintain its access to Public Right of Way on terms materially consistent with those found in this Franchise.

SECTION 11. CABLE SYSTEM, TECHNICAL STANDARDS AND TESTING

11.1 Subscriber Network

(A) Grantee's Cable System shall consist of a mix of fiber to the premises and HFC and shall provide Activated Two-Way capability. The Cable System shall be capable of supporting video and audio. The Cable System shall have the capacity to deliver no less than one hundred and fifty (150) Channels of digital video programming services to Subscribers, provided that the Grantee reserves the right to use the bandwidth in the future for other uses based on market factors.

(B) Equipment must be installed so that all closed captioning programming received by the Cable System shall include the closed caption signal so long as the closed caption signal is provided consistent with FCC standards. Equipment must be installed so that all local signals received in stereo or with secondary audio tracks (broadcast and Access) are retransmitted in those same formats.

(C) All construction shall be subject to the City's permitting process and all Applicable Law.

(D) Grantee and City shall meet, at the City's request, to discuss the progress of the design plan and construction.

(E) Grantee will take prompt corrective action if it finds that any facilities or equipment on the Cable System are not operating as expected, or if it finds that facilities and equipment do not comply with the requirements of this Franchise Agreement or Applicable Law.

(F) Grantee's construction decisions shall be based solely upon legitimate engineering decisions and shall not take into consideration the income level of any particular community within the Franchise Area.

11.2 Technology Assessment

(A) The City may notify Grantee on or after five (5) years after the Effective Date, that the City will conduct a technology assessment of Grantee's Cable System. The technology assessment may include, but is not limited to, determining whether Grantee's Cable System technology and performance are consistent with current technical practices and range and level of services existing in the fifteen (15) largest U.S. cable systems owned and operated by Grantee's Parent Corporation or Affiliates pursuant to franchises that have been renewed or extended since the Effective Date.

(B) Grantee shall cooperate with the City to provide necessary non-confidential and proprietary information upon the City's reasonable request as part of the technology assessment.

(C) At the discretion of the City, findings from the technology assessment may be included in any proceeding commenced for the purpose of identifying future cable-related community needs and interests undertaken by the City pursuant to 47 U.S.C. §546.

11.3 Standby Power

Grantee's Cable System Headend shall be capable of providing at least twelve (12) hours of emergency operation. In addition, throughout the term of this Franchise Agreement, Grantee shall have a plan in place, along with all resources necessary for implementing such plan, for dealing with outages of more than four (4) hours. This outage plan and evidence of requisite implementation resources shall be presented to the City no later than thirty (30) days following receipt of a request.

11.4 Emergency Alert Capability

Grantee shall provide an operating Emergency Alert System ("EAS") throughout the term of this Franchise Agreement in compliance with FCC standards. Grantee shall test the EAS as required by the FCC. Upon request, the City shall be permitted to participate in and/or witness the EAS testing up to twice a year on a schedule formed in consultation with Grantee. If the test indicates that the EAS is not performing properly, Grantee shall make any necessary adjustment to the EAS, and the EAS shall be retested.

11.5 Technical Performance

The technical performance of the Cable System shall meet or exceed all applicable federal (including, but not limited to, the FCC), State and local technical standards, as they may be amended from time to time, regardless of the transmission technology utilized. The City shall have the full authority permitted by Applicable Law to enforce compliance with these technical standards.

11.6 Cable System Performance Testing

(A) Grantee shall provide to the City a copy of its current written process for resolving complaints about the quality of the video programming services signals delivered to Subscriber and shall provide the City with any amendments or modifications to the process at such time as they are made.

(B) Grantee shall, at Grantee's expense, maintain all aggregate data of Subscriber complaints related to the quality of the video programming service signals delivered by Grantee in the City for a period of at least one year, and individual Subscriber complaints from the City for a period of at least three years, and make such information available to the City upon reasonable request.

(C) Grantee shall maintain written records of all results of its Cable System tests, performed by or for Grantee. Copies of such test results will be provided to the City upon reasonable request.

(D) Grantee shall perform any tests required by the FCC.

11.7 Additional Tests

Where there exists other evidence which, in the judgment of the City, casts doubt upon the reliability or technical quality of Cable Service, the City shall have the right and authority to require Grantee to test, analyze and report on the performance of the Cable System. Grantee shall fully cooperate with the City in performing such testing and shall prepare the results and a report, if requested, within thirty (30) days after testing. Such report shall include the following information:

(A) the nature of the complaint or problem which precipitated the special tests;

(B) the Cable System component tested;

(C) the equipment used and procedures employed in testing;

(D) the method, if any, in which such complaint or problem was resolved; and

(E) any other information pertinent to said tests and analysis which may be required.

SECTION 12. SERVICE AVAILABILITY

12.1 Service Availability

(A) In General. Except as otherwise provided in herein, Grantee shall provide Cable Service within seven (7) days of a request by any Person within the City that is passed by an Activated portion of the Cable System. For purposes of this Section, a request shall be deemed made on the date of signing a service agreement, receipt of funds by Grantee, receipt of a written request by Grantee or receipt by Grantee of a verified verbal request. Except as otherwise provided herein, Grantee shall provide such service:

(1) With no line extension charge except as specifically authorized elsewhere in this Franchise Agreement.

(2) At a non-discriminatory installation charge for a standard installation, consisting of a one hundred twenty-five (125)-foot drop connecting to an inside wall for Residential Subscribers, with additional charges for non-standard installations computed according to a non- discriminatory industry standard methodology for such installations adopted by Grantee and provided in writing to the City if requested by the City;

(3) At non discriminatory monthly rates for Residential Subscribers.

(B) Service to Multiple Dwelling Units. Consistent with this Subsection 12.1, the Grantee shall offer the individual units of a Multiple Dwelling Unit all Cable Services offered to other Dwelling Units in the City and shall individually wire units upon request of the property owner or renter who has been given written authorization by the owner; provided, however, that any such offering is conditioned upon the Grantee having legal access to said unit. The City acknowledges that the Grantee cannot control the dissemination of particular Cable Services beyond the point of demarcation at a Multiple Dwelling Unit.

(C) Customer Charges for Extensions of Service. Grantee agrees to extend its Cable System to all Persons living in areas with a residential density of thirty-five (35) residences per mile of Cable System plant. If the residential density is less than thirty-five (35) residences per 5,280 cable-bearing strand feet of trunk or distribution cable, service may be made available on the basis of a capital contribution in aid of construction, including cost of material, labor and easements. For the purpose of determining the amount of capital contribution in aid of construction to be borne by the Grantee and customers in the area in which service may be expanded, the Grantee will contribute an amount equal to the construction and other costs per mile, multiplied by a fraction whose numerator equals the actual number of residences per 5,280 cable-bearing strand feet of its trunk or distribution cable and whose denominator equals thirty-five (35). Customers who request service hereunder will bear the remainder of the construction and other costs on a pro-rata basis. The Grantee may require that the payment of the capital contribution in aid of construction borne by such potential customers be paid in advance.

SECTION 13. FRANCHISE VIOLATIONS

13.1 Procedure for Remedying Franchise Violations

(A) If the City reasonably believes that Grantee has failed to perform any obligation under this Franchise Agreement or has failed to perform in a timely manner, the City shall notify Grantee in writing, stating with reasonable specificity the nature of the alleged default. Grantee shall have thirty (30) days from the receipt of such notice to:

(1) respond to the City, contesting the City's assertion that a default has occurred, and requesting a meeting in accordance with Subsection (B), below;

(2) cure the default; or,

(3) notify the City that Grantee cannot cure the default within the thirty (30) days, because of the nature of the default. In the event the default cannot be cured within thirty (30) days, Grantee shall promptly take all reasonable steps to cure the default and notify the City in writing and in detail as to the exact steps that will be taken and the projected completion date. In such case, the City may set a meeting in accordance with Subsection (B) below to determine whether additional time beyond the thirty (30) days specified above is indeed needed, and whether Grantee's proposed completion schedule and steps are reasonable.

(B) If Grantee does not cure the alleged default within the cure period stated above, or by the projected completion date under Subsection (A)(3), or denies the default and requests a meeting in accordance with Subsection(A)(1), or the City orders a meeting in accordance with Subsection (A)(3), the City shall set a meeting to investigate said issues or the existence of the alleged default. The City shall notify Grantee of the meeting in writing and such meeting shall take place no less than thirty (30) days after Grantee's receipt of notice of the meeting. At the meeting, Grantee shall be provided an opportunity to be heard and to present evidence in its defense.

(C) If, after the meeting, the City determines that a default exists, the City reserves the right to seek any remedy that may be available at law or in equity, including without limitation, revocation, and Grantee reserves the right to assert any defenses it may have to the City's position.

(D) No provision of this Franchise shall be deemed to bar the right of the City to seek or obtain judicial relief from a violation of any provision of the Franchise or any rule, regulation, requirement or directive promulgated thereunder. Neither the existence of other remedies identified in this Franchise nor the exercise thereof shall be deemed to bar or otherwise limit the right of the City to recover monetary damages for such violations by Grantee, or to seek and obtain judicial enforcement of Grantee's obligations by means of specific performance, injunctive relief or mandate, or any other remedy at law or in equity.

(E) It shall not be a violation of this Franchise if Grantee decides, on a company-wide basis, to cease providing Cable Services. Grantee shall provide a minimum of one (1) year's written notice to City of the termination date, and upon that date all rights, duties and obligations of this Franchise shall terminate except for those that by their nature, should survive termination.

13.2 Revocation

(A) In addition to revocation in accordance with other provisions of this Franchise, the City may revoke this Franchise and rescind all rights and privileges associated with this Franchise in the following circumstances, each of which represents a material breach of this Franchise:

(1) If Grantee fails to perform any material obligation under this Franchise or under any other agreement, ordinance or document regarding the City and Grantee;

(2) If Grantee willfully fails for more than forty-eight (48) hours to provide continuous and uninterrupted Cable Service;

(3) If Grantee attempts to evade any material provision of this Franchise or to practice any fraud or deceit upon the City or Subscribers; or

(4) If Grantee becomes insolvent, or if there is an assignment for the benefit of Grantee's creditors;

(5) If Grantee makes a material misrepresentation of fact in the application for or negotiation of this Franchise.

(B) Notwithstanding any term to the contrary in this Section 13.2 of the Franchise the City acknowledges and agrees that (i) Grantee's performance of this Franchise may be subject to, or conditioned upon, City's performance of other agreements or arrangements between City and Grantee; and (ii) Grantee shall not be in violation or breach of this Agreement for failure or refusal to perform its obligations under this Franchise or Applicable Law if such failure arises from, or relates to, City's failure or refusal to perform its obligations under other agreements or arrangements between City and Grantee.

Following the procedures set forth in Subsection 13.1 and prior to forfeiture or termination of the Franchise, the City shall give written notice to the Grantee of its intent to revoke the Franchise and set a date for a revocation proceeding. The notice shall set forth the exact nature of the noncompliance.

(C) Any proceeding under the Subsection above shall be conducted by the City Council and open to the public. Grantee shall be afforded at least forty-five (45) days prior written notice of such proceeding.

(1) At such proceeding, Grantee shall be provided a fair opportunity for full participation, including the right to be represented by legal counsel, to introduce evidence, and to question witnesses. A complete verbatim record and transcript shall be made of such proceeding and the cost shall be shared equally between the parties. The City Council shall hear any Persons interested in the revocation, and shall allow Grantee, in particular, an opportunity to state its position on the matter.

(2) Within ninety (90) days after the hearing, the City Council shall determine whether to revoke the Franchise and declare that the Franchise is revoked and the letter of credit forfeited; or if the breach at issue is capable of being cured by Grantee, direct Grantee

to take appropriate remedial action within the time and in the manner and on the terms and conditions that the City Council determines are reasonable under the circumstances. If the City determines that the Franchise is to be revoked, the City shall set forth the reasons for such a decision and shall transmit a copy of the decision to the Grantee. Grantee shall be bound by the City's decision to revoke the Franchise unless it appeals the decision to a court of competent jurisdiction within fifteen (15) days of the date of the decision.

(3) Grantee shall be entitled to such relief as the Court may deem appropriate.

(4) The City Council may at its sole discretion take any lawful action which it deems appropriate to enforce the City's rights under the Franchise in lieu of revocation of the Franchise.

13.3 Procedures in the Event of Termination or Revocation

(A) If this Franchise Agreement expires without renewal after completion of all processes available under this Franchise Agreement and federal law or is otherwise lawfully terminated or revoked, the City may, subject to Applicable Law:

(1) Allow Grantee to maintain and operate its Cable System on a month-to-month basis or short-term extension of this Franchise for not less than six (6) months, unless a sale of the Cable System can be closed sooner or Grantee demonstrates to the City's satisfaction that it needs additional time to complete the sale; or

(2) Purchase Grantee's Cable System in accordance with the procedures set forth in Subsection 13.4, below.

(B) In the event that a sale has not been completed in accordance with Subsections (A)(1) or (A)(2), above, the City may order the removal of the above-ground Cable System facilities and such underground facilities from the City at Grantee's sole expense within a reasonable period of time as determined by the City. In removing its plant, structures and equipment, Grantee shall refill, at its own expense, any excavation that is made by it and shall leave all Rights-of-Way, public places and private property in as good condition as that prevailing prior to Grantee's removal of its equipment without affecting the electrical or telephone cable wires or attachments. The indemnification and insurance provisions and the letter of credit shall remain in full force and effect during the period of removal, and Grantee shall not be entitled to, and agrees not to request, compensation of any sort therefore unless permitted by Applicable Law.

(C) If Grantee fails to complete any removal required by Subsection 13.3(B) to the City's satisfaction, after written notice to Grantee, the City may cause the work to be done and Grantee shall reimburse the City for the costs incurred within thirty (30) days after receipt of an itemized list of the costs, or the City may recover the costs through the letter of credit provided by Grantee.

(D) The City may seek legal and equitable relief to enforce the provisions of this Franchise.

13.4 Purchase of Cable System

(A) If at any time this Franchise is revoked, terminated, or not renewed upon expiration in accordance with the provisions of federal law, the City shall have the option to purchase the Cable System.

(B) The City may, at any time thereafter, offer in writing to purchase Grantee's Cable System. Grantee shall have thirty (30) days from receipt of a written offer from the City within which to accept or reject the offer.

(C) In any case where the City elects to purchase the Cable System, the purchase shall be closed within one hundred and twenty (120) days of the date of the City's audit of a current profit and loss statement of Grantee. The City shall pay for the Cable System in cash or certified funds, and Grantee shall deliver appropriate bills of sale and other instruments of conveyance.

(D) For the purposes of this Subsection, the price for the Cable System shall be determined as follows:

(1) In the case of the expiration of the Franchise without renewal, at fair market value determined on the basis of Grantee's Cable System valued as a going concern, but with no value allocated to the Franchise itself. In order to obtain fair market value, this valuation shall be reduced by the amount of any lien, encumbrance, or other obligation of Grantee which the City would assume.

(2) In the case of revocation for cause, the equitable price of Grantee's Cable System.

13.5 Receivership and Foreclosure

(A) At the option of the City, subject to Applicable Law, this Franchise Agreement may be revoked one hundred and twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of Grantee whether in a receivership, reorganization, bankruptcy or other action or proceeding, unless:

(1) The receivership or trusteeship is vacated within one hundred and twenty (120) days of appointment; or

(2) The receivers or trustees have, within one hundred and twenty (120) days after their election or appointment, fully complied with all the terms and provisions of this Franchise, and have remedied all defaults under the Franchise. Additionally, the receivers or trustees shall have executed an agreement duly approved by the court having jurisdiction, by which the receivers or trustees assume and agree to be bound by every term, provision and limitation of this Franchise.

(B) If there is a foreclosure or other involuntary sale of the whole or any part of the plant, property and equipment of Grantee, the City may serve notice of revocation on Grantee and to the purchaser at the sale, and the rights and privileges of Grantee under this Franchise shall be revoked thirty (30) days after service of such notice, unless:

(1) The City has approved the transfer of the Franchise, in accordance with the procedures set forth in this Franchise and as provided by law; and

(2) The purchaser has covenanted and agreed with the City to assume and be bound by all of the terms and conditions of this Franchise Agreement.

13.6 No Monetary Recourse Against the City

Grantee shall not have any monetary recourse against the City or its officers, officials, boards, commissions, agents or employees for any loss, costs, expenses or damages arising out of any provision or requirement of this Franchise or the enforcement thereof, in accordance with the provisions of applicable federal, State and local law. The rights of the City under this Franchise Agreement are in addition to, and shall not be read to limit, any immunities the City may enjoy under federal, State or local law.

13.7 Effect of Abandonment

If the Grantee abandons its Cable System during the Franchise term, or fails to operate its Cable System in accordance with its duty to provide continuous service, the City, at its option, may operate the Cable System; designate another entity to operate the Cable System temporarily until the Grantee restores service under conditions acceptable to the City; or obtain an injunction requiring the Grantee to continue operations. If the City is required to operate or designate another entity to operate the Cable System, the Grantee shall reimburse the City or its designee for all reasonable costs, expenses and damages incurred.

13.8 What Constitutes Abandonment

The City shall be entitled to exercise its options in Subsection 13.7 if:

(A) The Grantee fails to provide Cable Service in accordance with this Franchise over a substantial portion of the Franchise Area for four (4) consecutive days, unless the City authorizes a longer interruption of service, or such interruption of Cable Service is related to a Force Majeure event; or

(B) The Grantee, for any period, willfully and without cause refuses to provide Cable Service in accordance with this Franchise.

SECTION 14. FRANCHISE RENEWAL AND TRANSFER

14.1 Renewal

(A) The City and Grantee agree that any proceedings undertaken by the City that relate to the renewal of the Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, unless the procedures and substantive protections set forth therein shall be deemed to be preempted and superseded by the provisions of any subsequent provision of federal or State law.

(B) In addition to the procedures set forth in said Section 626(a) of the Cable Act, the

City agrees to notify Grantee of the completion of its assessments regarding the identification of future cable-related community needs and interests, as well as the past performance of Grantee under the then current Franchise Agreement term. Notwithstanding anything to the contrary set forth herein, Grantee and City agree that at any time during the term of the then-current Franchise Agreement, while affording the public adequate notice and opportunity for comment, the City and Grantee may agree to undertake and finalize negotiations regarding renewal of the then current Franchise Agreement and the City may grant a renewal thereof. Grantee and City consider the terms set forth in this Subsection to be consistent with the express provisions of Section 626 of the Cable Act.

(C) Should the Franchise expire without a mutually agreed upon renewed Franchise Agreement and Grantee and City are engaged in a renewal process, Grantee shall continue to provide Cable Service to its Subscribers on a month-to-month basis, on the same terms and conditions as provided in this Franchise Agreement and the Cable Code. During any such "hold over" period, Franchisee shall continue to pay the Franchise Fee as set forth above, in addition to honoring all other provisions of this Franchise Agreement.

14.2 Transfer of Ownership or Control

(A) The Cable System and this Franchise shall not be sold, assigned, transferred, leased or disposed of, either in whole or in part, either by involuntary sale or by voluntary sale, merger or consolidation; nor shall title thereto, either legal or equitable, or any right, interest or property therein pass to or vest in any Person or entity without the prior written consent of the City, which consent shall be by the City Council/Commission, acting by ordinance/resolution.

(B) The Grantee shall promptly notify the City of any actual or proposed change in, or transfer of, or acquisition by any other party of control of the Grantee. The word "control" as used herein is not limited to majority stockholders but includes actual working control in whatever manner exercised. Every change, transfer or acquisition of control of the Grantee shall make this Franchise subject to cancellation unless and until the City shall have consented in writing thereto.

(C) The parties to the sale or transfer shall make a written request to the City for its approval of a sale or transfer and furnish all information required by App and the City.

(D) In seeking the City's consent to any change in ownership or control, the proposed transferee shall indicate whether it:

(1) Has ever been convicted or held liable for acts involving deceit including any violation of federal, State or local law or regulations, or is currently under an indictment, investigation or complaint charging such acts;

(2) Has ever had a judgment in an action for fraud, deceit, or misrepresentation entered against the proposed transferee by any court of competent jurisdiction;

(3) Has pending any material legal claim, lawsuit, or administrative proceeding arising out of or involving a cable system or a broadband system;

(4) Is financially solvent, by submitting financial data including financial statements that are audited by a certified public accountant who may also be an officer of the transferee, along with any other data that the City may reasonably require; and

(5) Has the financial, legal and technical capability to enable it to maintain and operate the Cable System for the remaining term of the Franchise.

(E) No Transfer application shall be granted unless the proposed transferee:

(1) Agrees in writing that it will abide by and accept the terms of the Boulder Cable Code, this Franchise Agreement and any additional terms and conditions that the City reasonably determines are needed to ensure compliance by the transferee with such Franchise Agreement;

(2) Agrees in writing to assume and be responsible for the obligations and liabilities of Grantee, known and unknown, under this Franchise Agreement and Applicable Law;

(3) Provides reasonable performance guarantees to the City that the City considers sufficient and adequate to guarantee the full and faithful performance of all franchise obligations by the proposed transferee;

(4) Agrees in writing that, except as provided in Section 626 of the Cable Act concerning use of previous non-compliance evidence in renewal proceedings following a transfer, approval by the City of the transfer shall not constitute a waiver or release of any rights of the City under this Franchise Agreement or Applicable Law whether arising before or after the effective date of the transfer; and

(5) Posts all required bonds, securities in a manner to ensure that there is no gap in coverage.

(F) The City shall act by ordinance on the request within one hundred and twenty (120) days of the request, provided it has received all information required by this Franchise Agreement or by Applicable Law. The City and the Grantee may by mutual agreement, at any time, extend the one hundred and twenty (120) day period. Subject to the foregoing, if the City fails to render a final decision on the request within one hundred and twenty 120 days, such request shall be deemed granted unless the requesting party and the City agree to an extension of time.

(G) Within thirty (30) days of any transfer or sale, if approved or deemed granted by the City, Grantee shall file with the City a copy of the deed, agreement, lease or other written instrument evidencing such sale or transfer of ownership or control, certified and sworn to as correct by Grantee and the transferee, and the transferee shall file its written acceptance agreeing to be bound by all of the provisions of this Franchise, subject to Applicable Law. In the event of a change in control, in which the Grantee is not replaced by another entity, the Grantee will continue to be bound by all of the provisions of this Franchise Agreement, subject to Applicable Law, and

will not be required to file an additional written acceptance.

(H) In reviewing a request for sale or transfer, the City may inquire into the legal, technical and financial qualifications of the prospective controlling party or transferee, and Grantee shall assist the City in so inquiring. The City may condition said sale or transfer upon such terms and conditions as it deems reasonably appropriate, in accordance with Applicable Law.

(I) Notwithstanding anything to the contrary in this Subsection, the prior approval of the Grantor shall not be required for any sale, assignment or transfer of the Franchise or Cable System to an entity controlling, controlled by or under the same common control as Grantee, provided that the proposed assignee or transferee must show financial responsibility as may be determined necessary by the Grantor and must agree in writing to comply with all of the provisions of the Franchise. Further, Grantee may pledge the assets of the Cable System for the purpose of financing without the consent of the Grantor; provided that such pledge of assets shall not impair or mitigate Grantee's responsibilities and capabilities to meet all of its obligations under the provisions of this Franchise.

SECTION 15. SEVERABILITY

If any section, subsection, paragraph, term or provision of this Franchise Agreement is determined to be illegal, invalid or unconstitutional by any court or agency of competent jurisdiction, such determination shall have no effect on the validity of any other section, subsection, paragraph, term or provision of this Franchise Agreement, all of which will remain in full force and effect for the term of the Franchise Agreement.

SECTION 16. MISCELLANEOUS PROVISIONS

16.1 Preferential or Discriminatory Practices Prohibited

In connection with the performance of work under this Franchise Agreement, the Grantee agrees not to refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any Person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and the Grantee further agrees to insert the foregoing provision in all subcontracts hereunder. Throughout the term of this Franchise Agreement, Grantee shall fully comply with all equal employment or non-discrimination provisions and requirements of federal, State and local laws, and in particular, FCC rules and regulations relating thereto.

16.2 Notices

Throughout the term of the Franchise Agreement, each party shall maintain and file with the other a local address for the service of notices by mail. All notices shall be sent overnight delivery postage prepaid to such respective address and such notices shall be effective upon the date of mailing. These addresses may be changed by the City or the Grantee by written notice at any time. At the Effective Date of this Franchise Agreement:

Grantee's address shall be:

ALLO Communications LLC
Brad Moline
President & CEO
330 S 21st St
Lincoln, NE 68510
Legal@allofiber.com

With a copy to:

ALLO Communications LLC
c/o Legal Department
121 S 13th St, Suite 100
Lincoln, NE 68508

The City's address shall be:

City Manager
City of Boulder
1777 Broadway
Boulder, CO 80302
CMOadmin@bouldercolorado.gov

With a copy to:

City Attorney
City of Boulder
1777 Broadway
Boulder, CO 80302
CAOadmin@bouldercolorado.gov

16.3 Descriptive Headings

The headings and titles of the sections and subsections of this Franchise Agreement are for reference purposes only, and shall not affect the meaning or interpretation of the text herein.

16.4 Publication Costs to be Borne by Grantee

Grantee shall reimburse the City for all costs incurred in publishing this Franchise Agreement, if such publication is required.

16.5 Binding Effect; No Third Party Beneficiaries

This Franchise Agreement shall be binding upon the parties hereto, their permitted successors and assigns. This Franchise Agreement is entered into solely for the benefit of the

Parties and shall not confer any rights upon any Person not a party to this Agreement.

16.6 No Joint Venture

Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the Parties and neither Party is authorized to, nor shall either Party act toward third Persons or the public in any manner which would indicate any such relationship with the other.

16.7 Waiver

The failure of the City at any time to require performance by the Grantee of any provision hereof shall in no way affect the right of the City hereafter to enforce the same. Nor shall the waiver by the City of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision, or as a waiver of the provision itself or any other provision.

16.8 Reasonableness of Consent or Approval

Whenever under this Franchise Agreement "reasonableness" is the standard for the granting or denial of the consent or approval of either party hereto, such party shall be entitled to consider public and governmental policy, moral and ethical standards, as well as business and economic considerations.

16.9 Entire Agreement

This Franchise Agreement and all Exhibits represent the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and supersede all prior oral negotiations between the parties.

16.10 Applicable Law

This Agreement shall be construed in accordance with the laws of the State of Colorado and the Cable Act. Jurisdiction and venue for any judicial dispute between the City and Grantee arising under or out of this Franchise Agreement shall be in Boulder County District Court, Colorado, or in the United States District Court in Denver.

16.11 Counterparts

This Franchise Agreement may be executed in counterparts. Affixation of signatures, or representations of signatures, onto PDF's shall be sufficient to bind the Parties.

IN WITNESS WHEREOF, the parties have set their hands to this Cable Franchise Agreement, which shall be effective as of April 1, 2025.

[Signatures on following page]

ALLO COMMUNICATIONS LLC

By: _____
Title: _____

CITY OF BOULDER,
a Colorado home rule city

_____
Nuria Rivera-Vandermyde,
City Manager

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney's Office

EXHIBIT A: REPORT FORM

ALLO COMMUNICATIONS LLC
Quarterly Executive Summary - Escalated Complaints
Section 7.6 (B) of our Franchise Agreement
Quarter Ending _____, Year
BOULDER, COLORADO

Type of Complaint	Number of Calls
Accessibility	0
Billing, Credit and Refunds	0
Courtesy	0
Drop Bury	0
Installation	0
Notices/Easement Issues (Non-Rebuild)	0
Pedestal	0
Problem Resolution	0
Programming	0
Property Damage (Non-Rebuild)	0
Rates	0
Rebuild/Upgrade Damage	0
Rebuild/Upgrade Notices/Easement Issues	0
Reception/Signal Quality	0
Safety	0
Service and Install Appointments	0
Service Interruptions	0
Serviceability	0
TOTAL	**0**

Compliments	

EXHIBIT B: CUSTOMER SERVICE STANDARDS

Introduction

The purpose of the Standards is to establish uniform requirements for the quality of service cable operators are expected to offer their customers in the City of Boulder (the "City" or "Franchise Authority") area. The Standards are subject to change from time to time.

The Franchise Authority encourages the Cable Operator to exceed these standards in their day-to-day operations and as such, understands that the Cable Operator may modify their operations in exceeding these standards.

The Standards incorporate the Customer Service Obligations published by the Federal Communications Commission (Section 76.309), April, 1993 and customer service standards of cable television service providers operating in Colorado. Based upon the City's assessment of the needs of citizens, the City has adopted, modified and created standards specially tailored to the City, based upon the model standards adopted by the Colorado Communications and Utility Alliance (the "CCUA").

The Standards require the cable operator, in certain circumstances, to post a security fund or letter of credit ensuring Customer Service. The security fund is to be used when the cable company fails to respond to a citizen complaint that the franchising authority determines is valid, and to provide a mechanism by which to impose remedies for noncompliance. It is the sincere hope and intention of the City that the security fund will never need to be drawn upon; however, the City believes that some enforcement measures are necessary.

CITY OF BOULDER

CUSTOMER SERVICE STANDARDS

I. POLICY

The Cable Operator should resolve citizen complaints without delay and interference from the Franchising Authority.

Where a given complaint is not addressed by the Cable Operator to the citizen's satisfaction, the Franchising Authority should intervene. In addition, where a pattern of unremedied complaints or noncompliance with the Standards is identified, the Franchising Authority should prescribe a cure and establish a reasonable deadline for implementation of the cure. If the noncompliance is not cured within established deadlines, monetary sanctions should be imposed to encourage compliance and deter future non-compliance.

These Standards are intended to be of general application, and are expected to be met under normal operating conditions; however, the Cable Operator shall be relieved of any obligations hereunder if it is unable to perform due to a region-wide natural emergency or in the event of Force Majeure affecting a significant portion of the Franchise Area. The Cable Operator is free to exceed these Standards to the benefit of its Customers and such shall be considered performance for the purposes of these Standards.

These Standards supersede any contradictory or inconsistent provision in federal, state or local law (Source: 47 U.S.C. § 552(a)(1) and (d)), provided, however, that any provision in federal, state or local law, or in any original franchise agreement or renewal agreement, that imposes a higher obligation or requirement than is imposed by these Standards, shall not be considered contradictory or inconsistent with these Standards. In the event of a conflict between these Standards and a Franchise Agreement, the Franchise Agreement shall control.

These Standards apply to the provision of any Cable Service, provided by a Cable Operator over a Cable System, within the City of Boulder.

II. DEFINITIONS

When used in these Customer Service Standards (the "Standards"), the following words, phrases, and terms shall have the meanings given below.

"Adoption" shall mean the process necessary to formally enact the Standards within the Franchising Authority's jurisdiction under applicable ordinances and laws.

"Affiliate" shall mean any person or entity that is owned or controlled by, or under common ownership or control with, a Cable Operator, and provides any Cable Service or Other Service.

"Applicable Law" means, with respect to these standards and any Cable Operator's privacy policies, any statute, ordinance, judicial decision, executive order or regulation having the force and effect of law, that determines the legal standing of a case or issue.

"Cable Operator" shall mean any person or group of persons (A) who provides Cable Service over a Cable System and directly or through one or more affiliates owns a significant interest in such cable system, or (B) who otherwise controls or is responsible for, through any arrangement, the management and operation of such a Cable System. Source: 47 U.S.C. § 522(5).

"Cable Service" shall mean (A) the one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and (B) subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service. Source: 47 U.S.C. § 522(6). For purposes of this definition, "video programming" is programming provided by, or generally considered comparable to programming provided by a television broadcast station. Source: 47 U.S.C. § 522(20). "Other programming service" is information that a Cable Operator makes available to all subscribers generally. Source: 47 U.S.C. § 522(14).

"Cable System" shall mean a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include: (A) a facility that serves only to retransmit the televisions signals of one or more television broadcast stations, or (B) a facility that serves subscribers without using any public right of way. Source: 47 U.S.C. § 522(7).

"Colorado Communications and Utilities Alliance" or "CCUA" shall mean an association comprised primarily of local governmental subdivisions of the State of Colorado, or any successor entity. The CCUA may, on behalf of its members, be delegated the authority to review, investigate

or otherwise take some related role in the administration or enforcement of any functions under these Standards.

“Contractor” shall mean a person or entity that agrees by contract to furnish materials or perform services for another at a specified consideration.

“Customer” shall mean any person who receives any Cable Service from a Cable Operator.

“Customer Service Representative” (or “CSR”) shall mean any person employed with or under contract or subcontract to a Cable Operator to assist, or provide service to, customers, whether by telephone, writing service or installation orders, answering customers' questions in person, receiving and processing payments, or performing any other customer service-related tasks.

“Escalated complaint” shall mean a complaint that is referred to a Cable Operator by the Franchising Authority.

“Franchising Authority” shall mean the City.

“Necessary” shall mean required or indispensable.

“Non-cable-related purpose” shall mean any purpose that is not necessary to render or conduct a legitimate business activity related to a Cable Service or Other Service provided by a Cable Operator to a Customer. Market research, telemarketing, and other marketing of services or products that are not related to a Cable Service or Other Service provided by a Cable Operator to a Customer shall be considered Non-cable-related purposes.

“Normal business hours” shall mean those hours during which most similar businesses in the community are open to serve customers. In all cases, “normal business hours” must include at least some evening hours one night per week, and include some weekend hours. Source: 47 C.F.R. § 76.309.

“Normal operating conditions” shall mean those service conditions which are within the control of a Cable Operator. Conditions which are not within the control of a Cable Operator include, but are not necessarily limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Conditions which are ordinarily within the control of a Cable Operator include, but are not necessarily limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods and maintenance or upgrade to the Cable System.

“Other Service(s)” shall mean any wire or radio communications service provided using any of the facilities of a Cable Operator that are used in the provision of Cable Service.

“Personally Identifiable Information” shall mean specific information about an identified Customer, including, but not be limited to, a Customer's (a) login information for the use of Cable Service and management of a Customer’s Cable Service account, (b) extent of viewing of video programming or Other Services, (c) shopping choices, (d) interests and opinions, (e) energy uses, (f) medical information, (g) banking data or information, or (h) any other personal or private information. “Personally Identifiable Information” shall not mean any aggregate information

about Customers which does not identify particular persons, or information gathered by a Cable Operator necessary to install, repair or service equipment or Cable System facilities at a Customer's premises.

"Service interruption" or "interruption" shall mean the loss or substantial impairment of picture or sound on one or more cable television channels.

"Service outage" or "outage" shall mean a loss or substantial impairment in reception on all channels.

"Subcontractor" shall mean a person or entity that enters into a contract to perform part or all of the obligations of another's contract.

"City" shall mean the City of Boulder, Colorado.

"Writing" or "written" as the term applies to notification shall include electronic communications.

Any terms not specifically defined in these Standards shall be given their ordinary meaning, or where otherwise defined in applicable federal law, such terms shall be interpreted consistent with those definitions.

III. CUSTOMER SERVICE

A. Courtesy

Cable Operator employees, contractors and subcontractors shall be courteous, knowledgeable and helpful and shall provide effective and satisfactory service in all contacts with customers.

B. Accessibility

1. A Cable Operator shall provide at least one customer service center(s)/business office(s) ("Service Centers") which are conveniently located, and which are open during Normal Business Hours. Service Centers shall be fully staffed with Customer Service Representatives offering the following services to Customers who come to the Service Center: bill payment, equipment exchange, processing of change of service requests, and response to Customer inquiries and request.

Unless otherwise requested by the City, a Cable Operator shall post a sign at each Service Center, visible from the outside of the Service Center, advising Customers of its hours of operation and of the telephone number at which to contact the Cable Operator if the Service Center is not open at the times posted.

The Cable Operator shall use commercially reasonable efforts to implement and promote "self-help" tools and technology, in order to respond to the growing demand of Customers who wish to interact with the Cable Operator on the Customer's own terms and timeline and at their own convenience, without having to travel to a Service Center. Without limitation, examples of self-help tools or technology may include self-installation kits to Customers upon request; pre-paid mailers for the return of equipment upon Customer request; an automated phone option for

Customer bill payments; and equipment exchanges at a Customer's residence in the event of damaged equipment. A Cable Operator shall provide free exchanges of faulty equipment at the customer's address if the equipment has not been damaged in any manner due to the fault or negligence of the customer.

2. A Cable Operator shall maintain local telephone access lines that shall be available twenty-four (24) hours a day, seven (7) days a week for service/repair requests and billing/service inquiries.

3. A Cable Operator shall have dispatchers and technicians on call twenty-four (24) hours a day, seven (7) days a week, including legal holidays.

4. If a customer service telephone call is answered with a recorded message providing the customer with various menu options to address the customer's concern, the recorded message must provide the customer the option to connect to and speak with a CSR within sixty (60) seconds of the commencement of the recording. During Normal Business Hours, a Cable Operator shall retain sufficient customer service representatives and telephone line capacity to ensure that telephone calls to technical service/repair and billing/service inquiry lines are answered by a customer service representative within thirty (30) seconds or less from the time a customer chooses a menu option to speak directly with a CSR or chooses a menu option that pursuant to the automated voice message, leads to a direct connection with a CSR. Under normal operating conditions, this thirty (30) second telephone answer time requirement standard shall be met no less than ninety (90) percent of the time measured quarterly.

5. Under normal operating conditions, a customer shall not receive a busy signal more than three percent (3%) of the time. This standard shall be met ninety (90) percent or more of the time, measured quarterly.

C. Responsiveness

1. Guaranteed Seven-Day Residential Installation

a. A Cable Operator shall complete all standard residential installations or modifications to service requested by customers within seven (7) business days after the order is placed, unless a later date for installation is requested. "Standard" residential installations are those located up to one hundred twenty five (125) feet from the existing distribution system. If the customer requests a nonstandard residential installation, or the Cable Operator determines that a nonstandard residential installation is required, the Cable Operator shall provide the customer in advance with a total installation cost estimate and an estimated date of completion.

b. All underground cable drops to the home shall be buried at a depth of no less than twelve inches (12"), or such other depth as may be required by the Franchise Agreement or local code provisions, or if there are no applicable Franchise or code requirements, at such other depths as may be agreed to by the parties if other construction concerns preclude the twelve inch requirement , and within no more than one calendar week from the initial installation, or at a time mutually agreed upon between the Cable Operator and the customer.

2. Residential Installation and Service Appointments

a. The "appointment window" alternatives for specific installations, service calls, or other installation activities will be either a specific time, or at a maximum, a four (4) hour time block between the hours of 8:00 a.m. and 6:00 p.m., six (6) days per week. A Cable Operator may schedule service calls and other installation activities outside of the above days and hours for the express convenience of customers. For purposes of this subsection "appointment window" means the period of time in which the representative of the Cable Operator must arrive at the customer's location.

b. A Cable Operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment, unless the customer's issue has otherwise been resolved.

c. If a Cable Operator is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the Cable Operator shall take reasonable efforts to contact the customer promptly, but in no event later than the end of the appointment window. The appointment will be rescheduled, as necessary at a time that is convenient to the customer, within Normal Business Hours or as may be otherwise agreed to between the customer and Cable Operator.

d. A Cable Operator shall be deemed to have responded to a request for service under the provisions of this section when a technician arrives within the agreed upon time, and, if the customer is absent when the technician arrives, the technician leaves written notification of arrival and return time, and a copy of that notification is kept by the Cable Operator. In such circumstances, the Cable Operator shall contact the customer within forty-eight (48) hours.

3. Residential Service Interruptions

a. In the event of system outages resulting from Cable Operator equipment failure, the Cable Operator shall correct such failure within 2 hours after the 3rd customer call is received.

b. All other service interruptions resulting from Cable Operator equipment failure shall be corrected by the Cable Operator by the end of the next calendar day.

c. Records of Complaints.

i. A Cable Operator shall keep an accurate and comprehensive file of any complaints regarding the cable system or its operation of the cable system, in a manner consistent with the privacy rights of customers, and the Cable Operator's actions in response to those complaints. These files shall remain available for viewing by the Franchising Authority during normal business hours at the Cable Operator's business office, and shall be retained by the Cable Operator for a period of at least three (3) years.

ii. Upon written request a Cable Operator shall provide the Franchising Authority an executive summary quarterly, which shall include information concerning customer complaints referred by the Franchising Authority to the Grantee and any other requirements of a Franchise Agreement but no personally identifiable information. These summaries shall be provided within fifteen (15) days after the end of each quarter. Once a request is made, it need not be repeated and quarterly executive summaries shall be

provided by the Cable Operator until notified in writing by the Franchising Authority that such summaries are no longer required.

iii. Upon written request a summary of service requests, identifying the number and nature of the requests and their disposition, shall also be completed by the Cable Operator for each quarter and submitted to the Franchising Authority by the fifteenth (15th) day of the month after each calendar quarter. Once a request is made, it need not be repeated and quarterly summary of service requests shall be provided by the Cable Operator until notified in writing by the Franchising Authority that such summaries are no longer required. Complaints shall be broken out by the nature of the complaint and the type of Cable service subject to the complaint.

d. Records of Service Interruptions and Outages. A Cable Operator shall maintain records of all outages and reported service interruptions. Such records shall indicate the type of cable service interrupted, including the reasons for the interruptions. A log of all service interruptions shall be maintained and provided to the Franchising Authority quarterly, upon written request, within fifteen (15) days after the end of each quarter. Such records shall be submitted to the Franchising Authority with the records identified in Section 3.c.ii above if so requested in writing, and shall be retained by the Cable Operator for a period of three (3) years.

e. All service outages and interruptions for any cause beyond the control of the Cable Operator shall be corrected within thirty-six (36) hours, after the conditions beyond its control have been corrected.

4. TV Reception

a. A Cable Operator shall provide clear television reception that meets or exceeds technical standards established by the United States Federal Communications Commission (the "FCC"). A Cable Operator shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Scheduled interruptions shall be preceded by notice and shall occur during periods of minimum use of the system, preferably between midnight and six a.m. (6:00 a.m.).

b. If a customer experiences poor video or audio reception attributable to a Cable Operator's equipment, the Cable Operator shall:

i. Assess the problem within one (1) day of notification;

ii. Communicate with the customer regarding the nature of the problem and the expected time for repair;

iii. Complete the repair within two (2) days of assessing the problem unless circumstances exist that reasonably require additional time.

c. If an appointment is necessary to address any video or audio reception problem, the customer may choose a block of time described in Section III.C.2.a. At the customer's request, the Cable Operator shall repair the problem at a later time convenient to the customer, during Normal Business Hours or at such other time as may be agreed to by the customer and Cable

Operator. A Cable Operator shall maintain periodic communications with a customer during the time period in which problem ascertainment and repair are ongoing, so that the customer is advised of the status of the Cable Operator's efforts to address the problem.

5. Problem Resolution

A Cable Operator's customer service representatives shall have the authority to provide credit for interrupted service, to waive fees, to schedule service appointments and to change billing cycles, where appropriate. Any difficulties that cannot be resolved by the customer service representative shall be referred to the appropriate supervisor who shall contact the customer within four (4) hours and resolve the problem within forty-eight (48) hours or within such other time frame as is acceptable to the customer and the Cable Operator.

6. Billing, Credits, and Refunds

a. In addition to other options for payment of a customer's service bill, a Cable Operator shall make available a telephone payment option where a customer without account irregularities can enter payment information through an automated system, without the necessity of speaking to a CSR.

b. A Cable Operator shall allow at least thirty (30) days from the beginning date of the applicable service period for payment of a customer's service bill for that period. If a customer's service bill is not paid within that period of time the Cable Operator may apply an administrative fee to the customer's account. The administrative fee must reflect the average costs incurred by the Cable Operator in attempting to collect the past-due payment in accordance with applicable law. If the customer's service bill is not paid within forty-five (45) days of the beginning date of the applicable service period, the Cable Operator may perform a "soft" disconnect of the customer's service. If a customer's service bill is not paid within fifty-two (52) days of the beginning date of the applicable service period, the Cable Operator may disconnect the customer's service, provided it has provided two (2) weeks' notice to the customer that such disconnection may result.

c. The Cable Operator shall issue a credit or refund to a customer within 30 days after determining the customer's entitlement to a credit or refund.

d. Whenever the Cable Operator offers any promotional or specially priced service(s) its promotional materials shall clearly identify and explain the specific terms of the promotion, including but not limited to manner in which any payment credit will be applied.

7. Treatment of Property

To the extent that a Franchise Agreement does not contain the following procedures for treatment of property, Operator shall comply with the procedures set forth in this Section.

a. A Cable Operator shall keep tree trimming to a minimum; trees and shrubs or other landscaping that are damaged by a Cable Operator, any employee or agent of a Cable Operator during installation or construction shall be restored to their prior condition or replaced within seven (7) days, unless seasonal conditions require a longer time, in which case such restoration or

replacement shall be made within seven (7) days after conditions permit. Trees and shrubs on private property shall not be removed without the prior permission of the owner or legal tenant of the property on which they are located. This provision shall be in addition to, and shall not supersede, any requirement in any franchise agreement.

b. A Cable Operator shall, at its own cost and expense, and in a manner approved by the property owner and the Franchising Authority, restore any private property to as good condition as before the work causing such disturbance was initiated. A Cable Operator shall repair, replace or compensate a property owner for any damage resulting from the Cable Operator's installation, construction, service or repair activities. If compensation is requested by the customer for damage caused by any Cable Operator activity, the Cable Operator shall reimburse the property owner one hundred (100) percent of the actual and undisputed cost of the damage, or any cost of damage for which Grantee is legally responsible.

c. Except in the case of an emergency involving public safety or service interruption to a large number of customers, a Cable Operator shall give reasonable notice to property owners or legal tenants prior to entering upon private premises, and the notice shall specify the work to be performed; provided that in the case of construction operations such notice shall be delivered or provided at least twenty-four (24) hours prior to entry, unless such notice is waived by the customer. For purposes of this subsection, “reasonable notice” shall be considered:

i. For pedestal installation or similar major construction, seven (7) days.

ii. For routine maintenance, such as adding or dropping service, tree trimming and the like, reasonable notice given the circumstances. Unless a Franchise Agreement has a different requirement, reasonable notice shall require, at a minimum, prior notice to a property owner or tenant, before entry is made onto that person’s property.

iii. For emergency work a Cable Operator shall attempt to contact the property owner or legal tenant in person, and shall leave a door hanger notice in the event personal contact is not made. Door hangars must describe the issue and provide contact information where the property owner or tenant can receive more information about the emergency work.

Nothing herein shall be construed as authorizing access or entry to private property, or any other property, where such right to access or entry is not otherwise provided by law.

d. Cable Operator personnel shall clean all areas surrounding any work site and ensure that all cable materials have been disposed of properly.

D. Services for Customers with Disabilities

1. For any customer with a disability, a Cable Operator shall deliver and pick up equipment at customers' homes at no charge unless the malfunction was caused by the actions of the customer. In the case of malfunctioning equipment, the technician shall provide replacement equipment, hook it up and ensure that it is working properly, and shall return the defective equipment to the Cable Operator.

2. A Cable Operator shall provide either TTY, TDD, TYY, VRS service or other similar service that are in compliance with the Americans With Disabilities Act and other applicable law, with trained operators who can provide every type of assistance rendered by the Cable Operator's customer service representatives for any hearing-impaired customer at no charge.

3. A Cable Operator shall provide free use of a remote control unit to mobility-impaired (if disabled, in accordance with Section III.D.4) customers.

4. Any customer with a disability may request the special services described above by providing a Cable Operator with a letter from the customer's physician stating the need, or by making the request to the Cable Operator's installer or service technician, where the need for the special services can be visually confirmed.

E. Cable Services Information

1. At any time a customer or prospective customer may request, a Cable Operator shall provide the following information, in clear, concise written form, easily accessible and located on Cable Operator's website (and in Spanish, when requested by the customer):

a. Products and services offered by the Cable Operator, including its channel lineup;

b. The Cable Operator's complete range of service options and the prices for these services;

c. The Cable Operator's billing, collection and disconnection policies;

d. Privacy rights of customers;

e. All applicable complaint procedures, including complaint forms and the telephone numbers and mailing addresses of the Cable Operator, and the FCC;

f. Use and availability of parental control/lock out device;

g. Special services for customers with disabilities;

h. Days, times of operation, and locations of the service centers;

2. At a Customer's request, a Cable Operator shall make available either a complete copy of these Standards and any other applicable customer service standards, or a summary of these Standards, in a format to be approved by CCUA and the Franchising Authority, which shall include at a minimum, the URL address of a website containing these Standards in their entirety; provided however, that if the CCUA or Franchising Authority does not maintain a website with a complete copy of these Standards, a Cable Operator shall be under no obligation to do so;

If acceptable to a customer, Cable Operator may fulfill customer requests for any of the information listed in this Section by making the requested information available electronically, such as on a website or by electronic mail.

3. Upon written request, a Cable Operator shall meet annually with the Franchising Authority to review the format of the Cable Operator's bills to customers. Whenever the Cable Operator makes substantial changes to its billing format, it will contact the Franchising Authority at least thirty (30) days prior to the time such changes are to be effective, in order to inform the Franchising Authority of such changes.

4. Copies of notices provided to the customer in accordance with subsection 5 below shall be filed (by fax or email acceptable) concurrently with the Franchising Authority and the CCUA.

5. A Cable Operator shall provide customers with written notification of any change in rates for nondiscretionary cable services, and for service tier changes that result in a deletion of programming from a customer's service tier, at least thirty (30) days before the effective date of change. For purposes of this section, "nondiscretionary" means the subscribed tier and any other Cable Services that a customer has subscribed to, at the time the change in rates are announced by the Cable Operator.

6. All officers, agents, and employees of the Cable Operator or its contractors or subcontractors who are in personal contact with customers or when working on public property, shall wear on their outer clothing identification cards bearing their name and photograph and identifying them as representatives of the Cable Operator. The Cable Operator shall account for all identification cards at all times. Every vehicle of the Cable Operator shall be clearly visually identified to the public as working for the Cable Operator. Whenever a Cable Operator work crew is in personal contact with customers or public employees, a supervisor must be able to communicate clearly with the customer or public employee. Every vehicle of a subcontractor or contractor shall be labeled with the name of the contractor and further identified as contracting or subcontracting for the Cable Operator.

7. Each CSR, technician or employee of the Cable Operator in each contact with a customer shall state the estimated cost of the service, repair, or installation orally prior to delivery of the service or before any work is performed, and shall provide the customer with an oral statement of the total charges before terminating the telephone call or before leaving the location at which the work was performed. A written estimate of the charges shall be provided to the customer before the actual work is performed.

F. Customer Privacy

1. Cable Customer Privacy. In addition to complying with the requirements in this subsection, a Cable Operator shall fully comply with all obligations under 47 U.S.C. Section 551.

2. Collection and Use of Personally Identifiable Information.

a. A Cable Operator shall not use the Cable System to collect, monitor or observe Personally Identifiable Information without the prior affirmative written or electronic consent of the Customer unless, and only to the extent that such information is: (i) used to detect unauthorized reception of cable communications, or (ii) necessary to render a Cable Service or Other Service provided by the Cable Operator to the Customer and as otherwise authorized by applicable law.

b. A Cable Operator shall take such actions as are necessary using then-current industry standard practices to prevent any Affiliate from using the facilities of the Cable Operator in any manner, including, but not limited to, sending data or other signals through such facilities, to the extent such use will permit an Affiliate unauthorized access to Personally Identifiable Information on equipment of a Customer (regardless of whether such equipment is owned or leased by the Customer or provided by a Cable Operator) or on any of the facilities of the Cable Operator that are used in the provision of Cable Service. This subsection F.2.b shall not be interpreted to prohibit an Affiliate from obtaining access to Personally Identifiable Information to the extent otherwise permitted by this subsection F.

c. A Cable Operator shall take such actions as are necessary using then-current industry standard practices to prevent a person or entity (other than an Affiliate) from using the facilities of the Cable Operator in any manner, including, but not limited to, sending data or other signals through such facilities, to the extent such use will permit such person or entity unauthorized access to Personally Identifiable Information on equipment of a Customer (regardless of whether such equipment is owned or leased by the Customer or provided by a Cable Operator) or on any of the facilities of the Cable Operator that are used in the provision of Cable Service.

3. Disclosure of Personally Identifiable Information. A Cable Operator shall not disclose Personally Identifiable Information without the prior affirmative written or electronic consent of the Customer, unless otherwise authorized by applicable law.

a. A minimum of thirty (30) days prior to making any disclosure of Personally Identifiable Information of any Customer for any Non-Cable related purpose as provided in this subsection F.3.a, where such Customer has not previously been provided the notice and choice provided for in subsection III.F.9, the Cable Operator shall notify each Customer (that the Cable Operator intends to disclose information about) of the Customer's right to prohibit the disclosure of such information for Non-cable related purposes. The notice to Customers may reference the Customer to his or her options to state a preference for disclosure or non-disclosure of certain information, as provided in subsection III.F.10.

b. A Cable Operator may disclose Personally Identifiable Information only to the extent that it is necessary to render, or conduct a legitimate business activity related to, a Cable Service or Other Service provided by the Cable Operator to the Customer.

c. To the extent authorized by applicable law, a Cable Operator may disclose Personally Identifiable Information pursuant to a subpoena, court order, warrant or other valid legal process authorizing such disclosure.

4. Access to Information. Any Personally Identifiable Information collected and maintained by a Cable Operator shall be made available for Customer examination within thirty (30) days of receiving a request by a Customer to examine such information about themselves at the local offices of the Cable Operator or other convenient place within the City designated by the Cable Operator, or electronically, such as over a website. Upon a reasonable showing by the Customer that such Personally Identifiable Information is inaccurate, a Cable Operator shall correct such information.

5. Privacy Notice to Customers

a. A Cable Operator shall annually mail or provide a separate, written or electronic copy of the privacy statement to Customers consistent with 47 U.S.C. Section 551(a)(1), and shall provide a Customer a copy of such statement at the time the Cable Operator enters into an agreement with the Customer to provide Cable Service. The written notice shall be in a clear and conspicuous format, which at a minimum, shall be in a comparable font size to other general information provided to Customers about their account as it appears on either paper or electronic Customer communications.

b. In or accompanying the statement required by subsection F.5.a, a Cable Operator shall state substantially the following message regarding the disclosure of Customer information: "Unless a Customer affirmatively consents electronically or in writing to the disclosure of personally identifiable information, any disclosure of personally identifiable information for purposes other than to the extent necessary to render, or conduct a legitimate business activity related to, a Cable Service or Other Service, is limited to:

i. Disclosure pursuant to valid legal process authorized by applicable law.

ii. Disclosure of the name and address of a Customer subscribing to any general programming tiers of service and other categories of Cable Services provided by the Cable Operator that do not directly or indirectly disclose: (A) A Customer's extent of viewing of a Cable Service or Other Service provided by the Cable Operator; (B) The extent of any other use by a Customer of a Cable Service; (C) The nature of any transactions made by a Customer over the Cable System; or (D) The nature of programming or websites that a Customer subscribes to or views (i.e., a Cable Operator may only disclose the fact that a person subscribes to a general tier of service, or a package of channels with the same type of programming), provided that with respect to the nature of websites subscribed to or viewed, these are limited to websites accessed by a Customer in connection with programming available from their account for Cable Services.

The notice shall also inform the Customers of their right to prohibit the disclosure of their names and addresses in accordance with subsection F.3.a. If a Customer exercises his or her right to prohibit the disclosure of name and address as provided in subsection F.3.a or this subsection, such prohibition against disclosure shall remain in effect, unless and until the Customer subsequently changes their disclosure preferences as described in subsection F.9 below.

6. Privacy Reporting Requirements. The Cable Operator shall include in its regular periodic reports to the Franchising Authority required by its Franchise Agreement information summarizing:

a. The type of Personally Identifiable Information that was actually collected or disclosed by Cable Operator during the reporting period;

b. For each type of Personally Identifiable Information collected or disclosed, a statement from an authorized representative of the Cable Operator certifying that the Personally Identifiable Information collected or disclosed was: (A) collected or disclosed to the extent Necessary to render, or conduct a legitimate business activity related to, a Cable Service or Other

Service provided by the Cable Operator; (B) used to the extent necessary to detect unauthorized reception of cable communications: (C) disclosed pursuant to valid legal process authorized by applicable law; or (D) a disclosure of Personally Identifiable Information of particular subscribers, but only to the extent affirmatively consented to by such subscribers in writing or electronically, or as otherwise authorized by applicable law.

c. The standard industrial classification (SIC) codes or comparable identifiers pertaining to any entities to whom such Personally Identifiable Information was disclosed, except that a Cable Operator need not provide the name of any court or governmental entity to which such disclosure was made pursuant to valid legal process authorized by applicable law;

d. The general measures that have been taken to prevent the unauthorized access to Personally Identifiable Information by a person other than the Customer or the Cable Operator. A Cable Operator shall meet with Franchising Authority if requested to discuss technology used to prohibit unauthorized access to Personally Identifiable Information by any means.

7. Nothing in this subsection III.F shall be construed to prevent the Franchising Authority from obtaining Personally Identifiable Information to the extent not prohibited by Section 631 of the Communications Act, 47 U.S.C. Section 551 and applicable laws.

8. Destruction of Personally Identifiable Information. A Cable Operator shall destroy any Personally Identifiable Information if the information is no longer necessary for the purpose for which it was collected and there are no pending requests or orders for access to such information under subsection 4 of this subsection III.F, pursuant to a court order or other valid legal process, or pursuant to applicable law.

9. Notice and Choice for Customers. The Cable Operator shall at all times make available to Customers one or more methods for Customers to use to prohibit or limit disclosures, or permit or release disclosures, as provided for in this subsection III.F. These methods may include, for example, online website "preference center" features, automated toll-free telephone systems, live toll-free telephone interactions with customer service agents, in-person interactions with customer service personnel, regular mail methods such as a postage paid, self-addressed post card, an insert included with the Customer's monthly bill for Cable Service, the privacy notice specified in subsection III.F.5, or such other comparable methods as may be provided by the Cable Operator. Website "preference center" features shall be easily identifiable and navigable by Customers, and shall be in a comparable size font as other billing information provided to Customers on a Cable Operator's website. A Customer who provides the Cable Operator with permission to disclose Personally Identifiable Information through any of the methods offered by a Cable Operator shall be provided follow-up notice, no less than annually, of the Customer's right to prohibit these disclosures and the options for the Customer to express his or her preference regarding disclosures. Such notice shall, at a minimum, be provided by an insert in the Cable Operator's bill (or other direct mail piece) to the Customer or a notice or message printed on the Cable Operator's bill to the Customer, and on the Cable Operator's website when a Customer logs in to view his or her Cable Service account options. The form of such notice shall also be provided on an annual basis to the Franchising Authority. These methods of notification to Customers may also include other comparable methods as submitted by the Cable Operator and approved by the Franchising Authority in its reasonable discretion.

G. Safety

A Cable Operator shall install and locate its facilities, cable system, and equipment in compliance with all federal, state, local, and company safety standards, and in such manner as shall not unduly interfere with or endanger persons or property. Whenever a Cable Operator receives notice that an unsafe condition exists with respect to its equipment, the Cable Operator shall investigate such condition immediately, and shall take such measures as are necessary to remove or eliminate any unsafe condition.

H. Cancellation of New Services

In the event that a new customer requests installation of Cable Service and is unsatisfied with their initial Cable Service, and provided that the customer so notifies the Cable Operator of their dissatisfaction within thirty (30) days of initial installation, then such customer can request disconnection of Cable Service within thirty (30) days of initial installation, and the Cable Operator shall provide a credit to the customer's account consistent with this Section. The customer will be required to return all equipment in good working order; provided such equipment is returned in such order, then the Cable Operator shall refund the monthly recurring fee for the new customer's first thirty (30) days of Cable Service and any charges paid for installation. This provision does not apply to existing customers who request upgrades to their Cable Service, to discretionary Cable Service such as PPV or movies purchased and viewed On Demand, or to customer moves or transfers of Cable Service. The service credit shall be provided in the next billing cycle.

IV. COMPLAINT PROCEDURE

A. Complaints to a Cable Operator

1. A Cable Operator shall establish written procedures for receiving, acting upon, and resolving customer complaints, and crediting customer accounts and shall have such procedures printed and disseminated at the Cable Operator's sole expense, consistent with Section III.E.1.e of these Standards.

2. Said written procedures shall prescribe a simple manner in which any customer may submit a complaint by telephone or in writing to a Cable Operator that it has violated any provision of these Customer Service Standards, any terms or conditions of the customer's contract with the Cable Operator, or reasonable business practices. If a representative of the Franchising Authority notifies the Cable Operator of a customer complaint that has not previously been made by the customer to the Cable Operator, the complaint shall be deemed to have been made by the customer as of the date of the Franchising Authority's notice to the Cable Operator.

3. At the conclusion of the Cable Operator's investigation of a customer complaint, but in no more than ten (10) calendar days after receiving the complaint, the Cable Operator shall notify the customer of the results of its investigation and its proposed action or credit.

4. A Cable Operator shall also notify the customer of the customer's right to file a complaint with the Franchising Authority in the event the customer is dissatisfied with the Cable Operator's decision, and shall thoroughly explain the necessary procedures for filing such complaint with the Franchising Authority.

5. A Cable Operator shall immediately report all customer Escalated complaints that it does not find valid to the Franchising Authority.

6. A Cable Operator's complaint procedures shall be filed with the Franchising Authority prior to implementation.

B. Complaints to the Franchising Authority

1. Any customer who is dissatisfied with any proposed decision of the Cable Operator or who has not received a decision within the time period set forth below shall be entitled to have the complaint reviewed by the Franchising Authority.

2. The customer may initiate the review either by calling the Franchising Authority or by filing a written complaint together with the Cable Operator's written decision, if any, with the Franchising Authority.

3. The customer shall make such filing and notification within twenty (20) days of receipt of the Cable Operator's decision or, if no decision has been provided, within thirty (30) days after filing the original complaint with the Cable Operator.

4. If the Franchising Authority decides that further evidence is warranted, the Franchising Authority shall require the Cable Operator and the customer to submit, within ten (10) days of notice thereof, a written statement of the facts and arguments in support of their respective positions.

5. The Cable Operator and the customer shall produce any additional evidence, including any reports from the Cable Operator, which the Franchising Authority may deem necessary to an understanding and determination of the complaint.

6. The Franchising Authority shall issue a determination within fifteen (15) days of receiving the customer complaint, or after examining the materials submitted, setting forth its basis for the determination.

7. The Franchising Authority may extend these time limits for reasonable cause and may intercede and attempt to negotiate an informal resolution.

C. Security Fund or Letter of Credit

A Cable operator shall comply with any Franchise Agreement regarding Letters of Credit. If a Franchise Agreement is silent on Letter of Credit the following shall apply:

1. Within thirty (30) days of the written notification to a Cable Operator by the Franchising Authority that an alleged Franchise violation exists, a Cable Operator shall deposit with an escrow agent approved by the Franchising Authority fifty thousand dollars ($50,000) or, in the sole discretion of the Franchising Authority, such lesser amount as the Franchising Authority deems reasonable to protect subscribers within its jurisdiction. Alternatively, at the Cable Operator’s discretion, it may provide to the Franchising Authority an irrevocable letter of credit in the same amount. A letter of credit or cash deposit, with the approval of the Franchising Authority, may be

posted jointly for more than one member of the CCUA, and may be administered, and drawn upon, jointly by the CCUA or drawn upon individually by each member; provided however that if such letter of credit or cash deposit is provided to CCUA on behalf of more than one of its members, the letter of credit or cash deposit may, in the sole discretion of CCUA and its effected members, be required in an amount not to exceed one hundred thousand dollars ($100,000).

The escrowed funds or letter of credit shall constitute the "Security Fund" for ensuring compliance with these Standards for the benefit of the Franchising Authority. The escrowed funds or letter of credit shall be maintained by a Cable Operator at the amount initially required, even if amounts are withdrawn pursuant to any provision of these Standards, until any claims related to the alleged Franchise violation(s) are paid in full.

2. The Franchising Authority may require the Cable Operator to increase the amount of the Security Fund, if it finds that new risk factors exist which necessitate such an increase.

3. The Security Fund shall serve as security for the payment of any penalties, fees, charges or credits as provided for herein and for the performance by a Cable Operator of all its obligations under these Customer Service Standards.

4. The rights reserved to the Franchising Authority with respect to the Security Fund are in addition to all other rights of the Franchising Authority, whether reserved by any applicable franchise agreement or authorized by law, and no action, proceeding or exercise of a right with respect to same shall in any way affect, or diminish, any other right the Franchising Authority may otherwise have.

D. Verification of Compliance

A Cable Operator shall establish its compliance with any or all of the standards required through annual reports that demonstrate said compliance, or as requested by the Franchising Authority.

E. Procedure for Remedying Violations

1. If the Franchising Authority has reason to believe that a Cable Operator has failed to comply with any of these Standards, or has failed to perform in a timely manner, the Franchising Authority may pursue the procedures in its Franchise Agreement to address violations of these Standards in a like manner as other franchise violations are considered.

2. Following the procedures set forth in any Franchise Agreement governing the manner to address alleged Franchise violations, if the Franchising Authority determines in its sole discretion that the noncompliance has been substantiated, in addition to any remedies that may be provided in the Franchise Agreement, the Franchising Authority may:

a. Impose assessments of up to one thousand dollars ($1,000.00) per day, to be withdrawn from the Security Fund in addition to any franchise fee until the non-compliance is remedied;

b. Order such rebates and credits to affected customers as in its sole discretion it deems reasonable and appropriate for degraded or unsatisfactory services that constituted noncompliance with these Standards;

c. Reverse any decision of the Cable Operator in the matter;

d. Grant a specific solution as determined by the Franchising Authority; or

e. Except for in emergency situations, withhold licenses and permits for work by the Cable Operator or its subcontractors in accordance with applicable law.

V. MISCELLANEOUS

A. Severability

Should any section, subsection, paragraph, term, or provision of these Standards be determined to be illegal, invalid, or unconstitutional by any court or agency of competent jurisdiction with regard thereto, such determination shall have no effect on the validity of any other section, subsection, paragraph, term, or provision of these Standards, each of the latter of which shall remain in full force and effect.

B. Non-Waiver

Failure to enforce any provision of these Standards shall not operate as a waiver of the obligations or responsibilities of a Cable Operator under said provision, or any other provision of these Standards.

Application for Cable Franchise Agreement

City of Boulder:

Please consider the enclosed application for grant of an initial cable franchise agreement with the City of Boulder, Colorado ("City") from ALLO Communications LLC ("ALLO"), a Nebraska limited liability company. This application is being made pursuant to the Boulder Cable Code, subsection 11-6-4, B.R.C. 1981.

Pursuant to subsection 11-6-4(f), B.R.C. 1981 and upon request of the City, ALLO will remit a reasonable filing fee to the City. The names and addresses of persons authorized to act on behalf of ALLO with respect to the application are as follows:

Brad Moline
President & CEO
610 Broadway St
Imperial, NE 69033

Bob Beiersdorf
Regional General Manager
808 9th St
Greeley, CO 80631

Andrew Vinton
Director-Legal and Regulatory Affairs
330 S 21st St
Lincoln, NE 68510

By signing below, I Bradley A. Moline, in my capacity as an officer of ALLO Communications LLC, to the best of my knowledge certify to the truth and accuracy of the information in the application, acknowledge the enforceability of application commitments, and certify that the application meets all requirements of applicable law.

ALLO is happy to provide additional information upon request and respectfully encourages you to grant ALLO a cable franchise agreement.

Sincerely,

By: _____
Name: Bradley A. Moline
Title: President & CEO

Application for Cable Franchise Agreement

Pursuant to the Boulder Cable Code, ALLO has specifically addressed the fourteen (14) requirements listed in the Code below. ALLO's answers to these questions are in RED:

(1) Name and address of the applicant and identification of the ownership and control of the applicant, including: the names and addresses of the ten largest holders of an ownership interest in the applicant and persons in the applicant's direct ownership chain and all persons with ten percent or more ownership interest in the applicant and persons in the applicant's direct ownership chain; the persons who control the applicant and persons in the applicant's direct ownership chain; and all officers and directors of the applicant and persons in the applicant's direct ownership chain.

Applicant Name: ALLO Communications LLC ("ALLO")

Applicant Address: 330 S 21st St Lincoln, NE 68510

Direct Owner of Applicant: ALLO Intermediate Holdings, LLC owns 100% of ALLO Communications LLC

Upstream owners holding 10% or more ownership interest:

Nelnet, Inc. (NYSE: NNI), 121 S. 13th Street, Suite 100, Lincoln, NE 68508, owns approximately 45.22% of ALLO Communications LLC

SDC Allo Holdings, LLC, 817 Broadway 10th Floor, New York, New York 1003, owns approximately 48.49% of ALLO Communications LLC

Michael S. Dunlap, Executive Chairman, Nelnet, Inc., 6801 Eastshore Drive, Lincoln, NE 68516, is the controlling shareholder of Nelnet, Inc. Through his interest in Nelnet, Inc., Mr. Dunlap indirectly owns approximately 19.27% of ALLO Communications LLC

(2) A demonstration of the applicant's technical ability to construct and/or operate the proposed cable system, including identification of key personnel.

ALLO has the experience, capacity, and technical ability to construct and operate the cable system in Boulder, Colorado. ALLO is a telecommunications company offering world-class Fiber-to-the-Premise (FTTP) gigabit networks providing superior broadband, internet, television, and telephone to residents, businesses, and government entities. ALLO delivers these services utilizing 100% FTTP networks. For the purposes of this application, ALLO's responses will focus on our cable offering. ALLO's fiber networks expand business opportunities, create jobs, and improve quality of life for our customers.

We have designed, constructed, maintained, and provided services for ubiquitous FTTP networks since 2004 in cities with populations ranging from 1,400 to 290,000 with a total population served of 1.3 million and increasing.

Our team serves government entities, businesses, schools, and residents creating gigabit societies. ALLO has invested more than $1 billion in FTTP assets across nearly 50 communities.

ALLO's growth and success over the past two decades is evidence of our technical capabilities, experienced personnel, superior products, and unmatched reputation for customer service. Our modern network, expert team of engineers, operators, and technical specialists combined with the immense capacity of ALLO's fiber network provide unparalleled service to our partner communities.

With more than 20 years of experience building gigabit communities, ALLO has the expertise and current solutions to partner with the City of Boulder to deploy a successful network.

Key Personnel

Brad Moline serves as President and Chief Executive Officer. Under his management, ALLO has successfully provided (or is in the process of providing) FTTP services to nearly 50 communities throughout Nebraska, Colorado, Arizona, and Missouri.

Allison O'Neil serves as Chief Experience Officer for ALLO and has been with the company for more than 18 years. Allison manages every aspect of the customer experience, ensuring ALLO is meeting the expectations of both residential and business customers.

Nate Buhrman serves as Chief Financial Officer. Nate oversees finance and accounting functions for the company including internal controls and financial planning and analysis.

Don Schoening serves as Chief Field Services Officer for ALLO and has more than 30 years of experience. Don manages the outside and inside installation technicians and leads ALLO's safety and fleet teams.

Todd Heyne serves as Chief Construction Officer and is responsible for evaluating and optimizing fiber optic outside plant construction. Todd's experience managing ALLO's 120+ person construction team and 600+ person contractor crew provides valuable insight for the evaluation of designs for constructability and cost efficiency.

Al Schroeder serves as the Director of Outside Plant Engineering. Al has decades of experience working in and leading teams performing outside plant design and construction. Al is a registered professional civil engineer and is an expert in aerial, buried, and underground Fiber-to-the-Home designs.

Al oversees the design, permitting, and as-built records for our projects. His team completed and delivered the designs for our Lincoln community, enabling completion of the project two years ahead of schedule while staying on budget.

Bob Beiersdorf serves as Regional General Manager for ALLO. Bob is responsible for business performance oversight within ALLO's Colorado Region. His responsibilities include market development and execution planning, as well as integration of ALLO culture within new markets to ensure exceptional customer experience and team member satisfaction.

Bob resides in and has extensive knowledge of the Colorado telecommunications market and will serve as the main contact for Boulder.

(3) A demonstration of the applicant's legal qualifications to construct and/or operate the proposed cable system.

ALLO possesses legal qualifications to construct and operate the proposed cable system.

These qualifications include:

1. Maintaining licensure and registration relevant to the provisioning of cable service with the Federal Communications Commission ("FCC") and Colorado Public Service Commission. Public FCC filings may be accessed by searching ALLO Communications LLC, FCC Registration Number 0025822081.
2. A Right-of-Way Contractor License (LIC-01002651) from City of Boulder.
3. A Pole License Agreement with Public Service Company of Colorado d/b/a XCEL Energy.
4. Registration and good standing status with the Colorado Secretary of State as a foreign limited liability company.

(4) A statement prepared by a certified public accountant regarding the applicant's financial ability to complete the construction and operation of the cable system proposed.

See Exhibit A attached hereto, which is an annual audit report for ALLO Communications LLC prepared by KPMG.

ALLO has the financial ability to complete the construction and operation of the cable system proposed in this application. ALLO has previously completed more than fifty other cable systems in a like manner with financing from equity, construction debt facilities and asset-based securitization. Brad Moline, the signatory of this letter and Lianna Kathol, ALLO's controller, have each been certified public accountants.

(5) A description of the applicant's prior experience in cable system ownership, construction and operation, and identification of cities and counties in which the applicant has, or has had, a cable franchise or any interest therein.

ALLO has constructed, owned, and operated 100% FTTP cable systems in more than fifty communities across four states.

ALLO and its affiliates currently hold approximately fifty cable franchise or similar agreements with municipalities and counties in Nebraska, Colorado, Arizona, and Missouri. ALLO will provide a detailed list upon request, or they can be accessed via www.allofiber.com.

(6) Identification of the area of the city to be served by the proposed cable system, including a description of the proposed franchise area's boundaries.

At least 97% of the structures within the City Limits of Boulder will be passed and served by ALLO's network and systems.

(7) A detailed description of the physical facilities proposed, including channel capacity, technical design, performance characteristics, headend and access facilities.

Internet Protocol Television ("IPTV") is a digital TV service that delivers video over the internet. ALLO will employ IPTV to deliver cable service to customers in the City. IPTV operates similarly to traditional cable TV, but uses ethernet cables instead of coaxial cables. The video

streams are transmitted using IP as opposed to RF (Radio Frequencies), like traditional cable. Similar to data and voice services, IPTV service is delivered to end-user locations using ALLO's 100% fiber-to-the-premises (FTTP) network.

IPTV Service Facility Details:

- No additional facilities specific to IPTV will be needed in Boulder. The ALLO Fiber IPTV Video Headend that serves Boulder and the rest of ALLO's Colorado customers is physically located in North Platte, Nebraska.

Channel Capacity:

- Currently, residential fiber customers' bandwidth speeds are up to 2.3 Gbps and business fiber customers up to 10 Gbps. A typical HD channel on the ALLO IPTV system requires 6.5 Mbps of multicast traffic. Looking at maximum raw capacity, a residential customer could concurrently view up to 350 channels and a business customer could view up to 1,500 channels.
- For additional channels that may be needed that ALLO does not already offer, the Video Headend location capacity can be increased to meet customer needs or additional requirements. This includes but is not limited to servers, encoders, and receivers.
- Depending on the product and customer type, limitations exist for features like whole home DVR that limit concurrently watched channels per account to 6 HD and 6 HD max. Other limitations include residential gateways (router), in home wiring, and wireless services that can influence total channel viewership.

In summary, ALLO is confident that its future-proof fiber facilities, current IPTV solution, and long-term approach to serving the needs of ALLO's customers will provide an exceptional service to households and businesses in the City for the foreseeable future.

(8) Where applicable, a description of the construction of the proposed cable system, including an estimate of plant mileage and its location; the proposed construction schedule; a description, where appropriate, of how services will be converted from existing facilities to new facilities; and information on the availability of space in conduits including, where appropriate, an estimate of the cost of any necessary rearrangement of existing facilities.

In addition to approximately fifty (50) miles of fiber and conduit ALLO will lease from the City, ALLO's proposed network design contains 1,348,751 feet (about 255 miles) of directional boring for distribution fiber routes and an additional 169,025 feet (about 32 miles) of feeder routes to connect distribution networks to ALLO's two central fiber hub facilities. ALLO may also selectively, but minimally, deploy aerial fiber by attaching it to existing utility poles. All deployment will be subject to the City's permitting authority. The mainline portion of the network will be located almost entirely within public rights-of-way, utility easements, and similar public ways. Drops connecting end users will be deployed on private property with the consent of the customer/property owner. Any private property rights needed to deploy the network will be ALLO's responsibility to secure.

Proposed construction schedule: Begin construction in Q2 2025.

Anticipated 80% project completion no later than EOY 2027.

Anticipated 97%+ project completion no later than EOY 2029.

Conversion of existing facilities to new facilities: N/A. ALLO is a new entrant to the Boulder market and does not have existing facilities.

Conduit: Through a separate lease agreement with the City of Boulder, ALLO will deploy fiber through approximately 50 miles of City-owned conduit. The remainder of ALLO's underground construction activity will involve installing conduit via directional boring, followed by pulling fiber through said conduit.

Cost of any necessary rearrangement of existing facilities: N/A. ALLO is a new entrant to the Boulder market and does not have existing facilities.

(9) If and to the extent that rates are subject to the jurisdiction of the city under applicable law, the proposed rate structure, including projected charges for each service tier, installation, converters and all other proposed equipment or services.

Rates are not subject to the jurisdiction of the City under applicable law as of the date in this application.

Rate structure will be the same as currently offered in Greeley, Colorado https://customer.allofiber.com/get-allo/step2

Basic TV (123 channels): $119/month plus taxes ($89 if purchased with an Internet product)

Local TV (49 channels): $51/month plus taxes ($31 if purchased with an Internet product)

Various premium channels and other service offerings are also available by customer preference.

ALLO does not require installation fees or conversion fees for ordinary installations.

Set top boxes are $5/month per connected TV.

(10) A demonstration of how the applicant will reasonably meet the future cable-related needs and interests of the community, including descriptions of the channels, facilities and support for public, educational and governmental use of the cable system (including institutional networks) that the applicant proposes to provide and why the applicant believes that the proposal is adequate to meet the future cable-related needs and interests of the community, taking into account the costs thereof and the potential for amortization of such costs.

ALLO's 100% fiber network provides a scalable and future-proof platform to continue meeting the cable-related needs and interests of the community as demand for cable TV services evolves over time. This includes a public, educational, and governmental (PEG) channel for use by the city.

As more subscribers shift to video streaming services, network bandwidth, low latency, and reliability become ever more paramount to the customer viewing experience. ALLO's all-fiber network is especially suited for this evolution. ALLO's XGS-PON architecture supplies 10 Gbps

bandwidth to all residential subscribers, representing multiples of the 2.3 Gbps highest tier currently offered. Future bandwidth needs will be secured with this architecture.

(11) Pro forma financial projections for the proposed franchise term, including a statement of projected income, and a schedule of planned capital additions, with all significant assumptions explained in notes or supporting schedules.

See attached Exhibit B.

Key assumptions used in development of the pro forma include:

- ~$125M investment in the community
- Scope of Build is the entire Boulder market
- 36 Mo. Duration of construction
- Offering 2.3Gbps, 1Gbps, 500Mbps Internet services, as well as cable and voice services

(12) If the applicant proposes to provide cable service to a television shadow area, an agreement to comply with paragraph 11-6-5(f)(6), B.R.C. 1981; * Any franchise serving any portion of the city must accept equivalent obligations for franchise fees and PEG use, capacity, facilities and financial support, on a gross revenue or per subscriber basis, as the case may be.

ALLO will provide the same channels and content throughout the city of Boulder regardless of broadcast shadow areas. ALLO will accept equivalent obligations as the incumbent franchisee for the items described in this section.

(13) Any other information as may be reasonably necessary to demonstrate compliance with the requirements of this chapter.

ALLO utilizes a mix of financing sources. Recently, ALLO has issued asset-backed securities (ABS bonds) secured by revenue generated by certain ALLO fiber networks. The ALLO bonds have received public ratings from Fitch Ratings. The majority of ALLO's (issued by ALLO Issuer, LLC) 2024-1 issuance were rated as class A-2 'Asf'; Outlook Stable.

ALLO is committed to adhering to environmental best practices and to avoiding environmental harm. This includes a commitment to remediation and restoration in ALLO's work areas during the network construction phase. ALLO looks forward to engaging with the community during and after the construction phase to ensure it understands and abides by local environmental needs and interests.

Additionally, fiber deployment is, by its nature, environmentally friendly. Passive fiber optic networks such as ALLO's require twelve (12) times less energy to operate than coaxial cables and ten and a half (10.5) times less energy than copper cable. The passive nature of the network avoids the use of battery technologies and active electronics throughout most of the fiber infrastructure.

(14) An affidavit or declaration of the applicant or authorized officer thereof certifying the truth and accuracy of the information in the application, acknowledging the enforceability of application commitments, and certifying that the application meets all requirements of applicable law.

Such declaration has been provided in the signed letter preceding this application.

EXHIBIT B

10 YR Pro Forma - Boulder, CO

	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
Total Revenue	$ 20,846	$ 2,915,467	$ 10,833,126	$ 21,189,722	$ 29,174,217	$ 35,419,899	$ 41,311,909	$ 45,617,069	$ 47,995,397	$ 49,397,679	$ 50,748,151
COGS	$ 154,733	$ 929,728	$ 2,494,816	$ 4,330,662	$ 5,478,053	$ 6,177,172	$ 7,010,570	$ 7,648,422	$ 7,967,185	$ 8,130,785	$ 8,291,765
Gross Margin	**$ (133,887)**	**$ 1,985,739**	**$ 8,338,310**	**$ 16,859,059**	**$ 23,696,163**	**$ 29,242,727**	**$ 34,301,339**	**$ 37,968,647**	**$ 40,028,212**	**$ 41,266,893**	**$ 42,456,386**
Op Ex	$ 586,459	$ 3,464,566	$ 6,876,114	$ 9,603,417	$ 10,241,176	$ 10,693,539	$ 11,115,388	$ 10,959,306	$ 10,406,030	$ 10,313,906	$ 10,325,698
EBITDA	**$ (720,345)**	**$ (1,478,827)**	**$ 1,462,195**	**$ 7,255,642**	**$ 13,454,987**	**$ 18,549,188**	**$ 23,185,951**	**$ 27,009,341**	**$ 29,622,182**	**$ 30,952,987**	**$ 32,130,688**
CapEx	$ 27,522,407	$ 34,956,104	$ 35,361,357	$ 18,323,383	$ 5,495,829	$ 5,351,141	$ 4,363,424	$ 2,668,857	$ 1,601,378	$ 1,800,606	$ 2,507,595
Unlevered Free Cash Flow	**$ (28,242,753)**	**$ (36,434,931)**	**$ (33,899,162)**	**$ (11,067,741)**	**$ 7,959,158**	**$ 13,198,047**	**$ 18,822,528**	**$ 24,340,484**	**$ 28,020,804**	**$ 29,152,381**	**$ 29,623,094**

MOODY'S INVESTORS SERVICE

ASSESSMENT
1 June 2023

Send Your Feedback

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ALLO Communications LLC

Second Party Opinion – Sustainability Financing Framework Assigned SQS2 Sustainability Quality Score

Summary

We have assigned an SQS2 sustainability quality score (very good) to ALLO Communications LLC's sustainability financing framework dated May 2023. The issuer has established its use-of-proceeds framework with the aim of financing projects across two eligible green categories and one eligible social category. The framework is aligned with the four core components of the International Capital Market Association's (ICMA) Green Bond Principles (GBP) 2021 (with June 2022 Appendix 1) and Social Bond Principles (SBP) 2021 (with June 2022 Appendix 1), and the Green Loan Principles (GLP) 2023 and Social Loan Principles (SLP) 2023 of the Loan Market Association, Asia Pacific Loan Market Association and Loan Syndications & Trading Association (LMA/APLMA/LSTA). The framework demonstrates a significant contribution to sustainability.

Sustainability quality score

SQS2

SQS5 Weak | SQS4 Intermediate | SQS3 Good | SQS2 Very good | SQS1 Excellent

Alignment with principles
USE OF PROCEEDS

Overall alignment

Not aligned | Partially aligned | Aligned | Best practices

FACTORS	ALIGNMENT
Use of proceeds	
Evaluation and selection	
Management of proceeds	
Reporting	

Contribution to sustainability

Overall contribution

Poor | Limited | Moderate | Significant | High

Expected impact
Relevance and magnitude

ADJUSTMENTS	
ESG risk management	No adjustment
Coherence	No adjustment

Scope

We have provided a Second Party Opinion (SPO) on the sustainability credentials of ALLO Communications LLC's (ALLO) sustainability financing framework, including its alignment with the ICMA's Green Bond Principles 2021 (with June 2022 Appendix 1) and Social Bond Principles 2021 (with June 2022 Appendix 1), as well as the Green Loan Principles (GLP) 2023 and Social Loan Principles (SLP) 2023 of the LMA/APLMA/LSTA. Under the framework, ALLO and its subsidiary plan to issue use-of-proceeds green, social or sustainability bonds, loans and other financial instruments with the aim of financing projects comprising two green categories and one social category, as outlined in Appendix 2 of this report.

Our assessment is based on the last updated version of the framework received on 5 May 2023, and our opinion reflects our point-in-time assessment of the details contained in this version of the framework, as well as other public and non-public information provided by the company.

We produced this SPO based on our Framework to Provide Second Party Opinions on Sustainable Debt, published in October 2022.

Issuer profile

Headquartered in Imperial, Nebraska, ALLO is a telecommunications company offering internet, telephone and television services through a high speed fiber-to-the-premise (FTTP) broadband network. The company provides symmetrical high speed broadband services to over a million residential and commercial customers across 36 cities in Nebraska, as well as customers in the states of Colorado and Arizona. The issuing entity of securitized bonds under the framework is ALLO Funding LLC, which is a wholly owned bankruptcy remote subsidiary of ALLO.

The environmental challenges of the telecommunications sector are primarily driven by the moderate exposure to physical climate risks as well as the emissions from energy intensive networks and equipment. Although the urban-rural digital divide has narrowed over the past decade, a significant gap remains and is a key social issue for the sector. ALLO aims to address these issues by deploying a high speed fiber optic network to provide broadband services to its service area and to underserved and unconnected areas with limited or low quality broadband access. The company's strategy is focused on transforming legacy copper networks that are inherently more energy intensive to energy-efficient fiber networks to reduce its carbon footprint.

Strengths

» Financing of a best-in-class energy-efficient fiber optic transmission network with the potential to reduce emissions beyond the company's own carbon footprint

» Fiber broadband services targeting a highly vulnerable population to bridge the digital divide

» Clearly defined eligible project categories, target population and sustainability objectives and benefits

» Structured, detailed and transparent process for project evaluation and selection, including relevant internal expertise

Challenges

» Despite the comparatively high energy efficiency of FTTP networks, the expected increase in data traffic could lead to increased absolute GHG emissions

» The rollout in rural areas is likely to generate higher locked-in emissions per house connected than in urban areas, because of the more extensive use of materials and construction required

» Reporting on allocation of proceeds will be provided until full allocation of proceeds, shorter than market best practice of until bond/loan maturity

» Proceeds allocation period will be 36 months, longer than market best practice of 24 months or less

Alignment with principles

ALLO's sustainability financing framework is aligned with the four core components of the ICMA's GBP 2021 (with June 2022 Appendix 1) and SBP 2021 (with June 2022 Appendix 1), as well as the GLP 2023 and SLP 2023 of the LMA/APLMA/LSTA:

- ☑ Green Bond Principles (GBP)
- ☑ Social Bond Principles (SBP)
- ☑ Green Loan Principles (GLP)
- ☑ Social Loan Principles (SLP)
- ○ Sustainability-Linked Bond Principles (SLBP)
- ○ Sustainability Linked Loan Principles (SLLP)

Use of proceeds

Clarity of the eligible categories – BEST PRACTICES

The company has clearly communicated the nature of expenditures, the eligibility criteria and the location of eligible projects which will be deployed in Nebraska, Colorado and Arizona. The target population for the social category has been clearly defined as the following; (i) populations with limited or low-quality access to broadband networks in rural or remote areas defined as a small town over forty minutes from an urban area or a truly rural area over forty minutes from an urban area, and (ii) populations from disadvantaged socioeconomic backgrounds defined as low income communities and individuals with incomes of less than 80% of the area median income, and individuals that are eligible for government assistance programs.

The framework includes descriptions of the eligible projects to be financed, and, additionally, the company has specified that the supporting infrastructure for the fiber network will seek to comply with the US Environmental Protection Agency's ENERGY STAR guidelines for energy management, thus constituting a reference to an internationally recognized technical threshold.

The framework governs the company's future issuances of green, social, and sustainability senior notes, subordinated notes, securitized financing, convertible notes, and green, social, and sustainability loans. In the case of securitization, the proceeds will be allocated by the fiber cable securitization program to finance or refinance the acquisition and deployment of eligible fiber that meet the criteria of eligible categories. The company has shared that collateralized assets will consist of fiber optic cables and equipment to support the network, and that details on the specific collateralized assets will be disclosed in the relevant securitized financing documentation. The company commits to not double count the sustainable benefits of the collateralized assets associated with any securitized financing.

Clarity of the environmental or social objectives – BEST PRACTICES

The company has clearly outlined the environmental and social objectives associated with its three eligible categories. These objectives include climate change mitigation through energy efficiency and renewable energy projects in the green categories and bridging the digital divide by providing access to broadband services in the social category. All eligible categories are relevant to the respective environmental and social objectives to which the company aims to contribute. The company has framed its objectives through six UN Sustainable Development Goals (SDGs) – Goal 7 – Affordable and Clean Energy, Goal 8 – Decent Work and Economic Growth, Goal 9 – Industry, Innovation and Infrastructure, Goal 10 – Reduced Inequalities, Goal 12 – Responsible Consumption and Production, and Goal 13 – Climate Action.

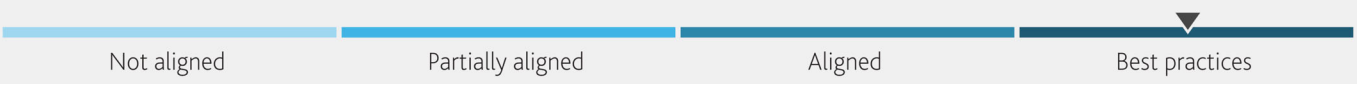
Clarity of expected benefits – ALIGNED

The company has identified clear expected environmental and social benefits for its three eligible categories. The benefits are measurable and quantifiable for nearly all project categories, and the company commits to report on these benefits in its annual allocation report. The company has committed to a refinancing lookback period of no longer than 24 months from the time of issuance. This will be communicated in each subsequent sustainability financing instrument documentation, and the company commits to disclose the estimated share of refinancing in its annual allocation report.

Best practices identified

- Eligibility criteria are clearly defined for all project categories
- Objectives set are defined, relevant and coherent for all project categories
- Relevant benefits are identified for all project categories
- Benefits are measurable and quantified for most projects, either ex-ante with clear baselines or with a commitment to do so in future reporting
- Commitment to transparently communicate the associated lookback period(s) where feasible

Process for project evaluation and selection



Transparency and quality of process for defining eligible projects – BEST PRACTICES

ALLO's decision-making process for the selection and evaluation of projects is clear, structured and disclosed in its framework. The company has established a sustainable finance steering committee that is responsible for project identification, evaluation, selection and ensuring that the projects are aligned with the eligibility criteria of its sustainability financing framework. The committee consists of individuals with relevant expertise, including members from its leadership, compliance, ethical engagement and finance teams. The committee will meet on an annual basis at a minimum and is responsible for the continued monitoring of the eligibility of the selected projects through the life of the sustainability financing instruments. The company has indicated that the committee will maintain an internal tracker to document details of decision-making to ensure traceability. In the event of a project divestment, the company commits to reallocate proceeds to other eligible green or social projects.

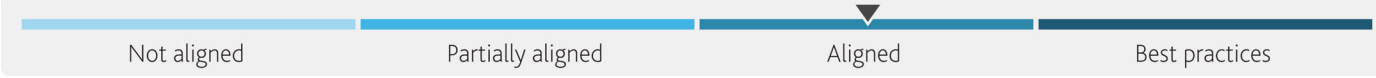
Environmental and social risk mitigation process – BEST PRACTICES

ALLO's environmental and social risk mitigation process is robust. The company has an internal environment, health, safety and sustainability (EHSS) management system to monitor, mitigate and prevent environmental and social risks across its operations. The committee will ensure the alignment of selected projects with internal environmental and social risk policies. Additionally, the company engages with local, state and federal authorities to plan and mitigate environmental externalities associated with the proposed projects through the approval, permitting, construction and operation phases of projects. Additionally, ALLO's social risk management policy is embedded within its procurement strategy and supply chain network.

Best practices identified

- The roles and responsibilities for project evaluation and selection are clearly defined and include relevant expertise
- There is evidence of continuity in the selection and evaluation process through the life of the financial instrument(s), including compliance verification and procedures to undertake mitigating actions when needed
- The process for project evaluation and selection is traceable
- Material environmental and social risks for most project categories are identified
- Presence of corrective measures to address environmental and social risks across projects
- ESG controversies are monitored

Management of proceeds



Allocation and tracking of proceeds – ALIGNED

The company has defined a clear process for the management and allocation of proceeds in its framework. The company has established a green and social financing register that will be tracked separately for the purpose of recording all eligible green and social projects that are intended to be allocated to future sustainability financings. Periodic tracking of the allocation of funds to eligible projects will be performed and adjustments will be made annually. The company will fully allocate net proceeds within 36 months.

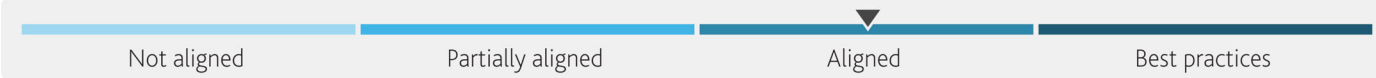
Management of unallocated proceeds – BEST PRACTICES

As formalized in its framework, unallocated proceeds will be invested in cash or cash equivalents, or other short-term investments, including marketable securities or the repayment of debt, in line with the company's internal liquidity management practices. The company commits to not invest temporary placements in any activities deemed by the company's management as high-emitting or controversial activities. In the event that a project is postponed, canceled, or otherwise becomes ineligible, the company has formalized in its framework that it will reallocate the funds to other eligible green and social projects.

Best practices identified

- Broad disclosure of a clearly articulated and comprehensive management of proceeds policy to external stakeholders; bondholders or lenders at a minimum
- Disclosure on temporary placement and presence of exclusion criteria toward environmentally or socially harmful activities
- Commitment to reallocate proceeds to projects that are compliant with the framework

Reporting



Transparency of reporting – ALIGNED

The company has committed to provide an allocation report within one year from the date of issuance of the sustainability financing instruments, and annually thereafter and in case of material developments until full allocation. The report will be publicly available on a designated website and will include exhaustive reporting indicators including general information and description of the allocated proceeds to eligible expenditures under the eligible category; the amount of net proceeds pending allocation; the percentage share of proceeds used for financing versus re-financing; material developments, issues and controversies related to the projects; information on types of temporary investments and the expected environmental and social benefits.

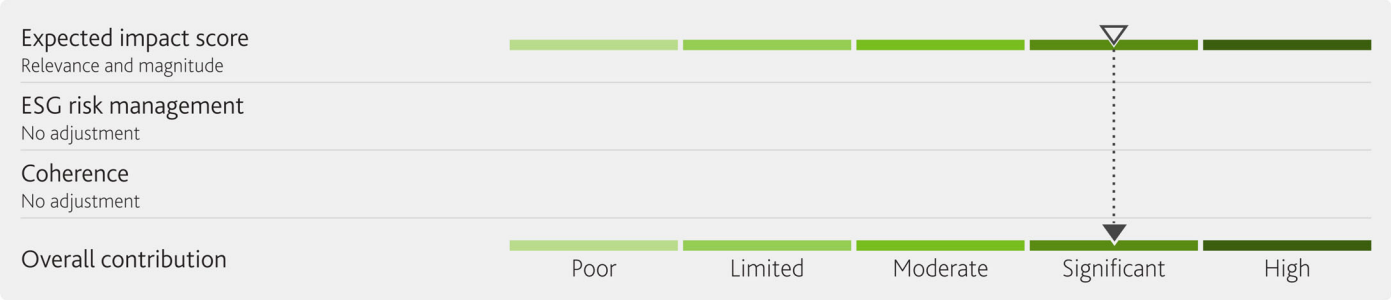
The company has identified clear and relevant environmental and social impact reporting indicators for each eligible category and has disclosed these indicators in its framework. The methodologies and assumptions used to report on environmental and social impacts will be disclosed in the report. The company has also committed to engage with an independent third party to verify the contents of the report, including information on both the allocation of proceeds and the environmental and social benefits.

Best practices identified

- Reporting covers material developments and issues related to the projects or assets
- Reporting on allocation of proceeds and benefits done at least at eligible category level
- Exhaustive allocation reporting – balance or % of unallocated funds, types of temporary investments (e.g. cash or cash equivalent) and share of financing versus re-financing
- Clear and relevant indicators to report on the expected environmental/social impact of all the projects, where feasible, or eligible categories
- Disclosure of reporting methodology and calculation assumptions to bondholders or lenders at a minimum
- Independent audit of the tracking and allocation of funds at least until full allocation and in case of material changes
- Independent impact assessment on environmental benefits by a qualified third-party reviewer at least until full allocation and in case of material changes and/or case studies to report on the social impact/benefits

Contribution to sustainability

The framework demonstrates a significant overall contribution to sustainability.



Expected impact

The expected impact of the eligible projects on environmental and social objectives is significant. Based on information provided by ALLO in the framework, we expect proceeds from forthcoming issuances to represent a higher proportion for the energy efficiency category. We have therefore assigned a higher weight to that category in our assessment of the framework's overall contribution to sustainability. A detailed assessment by eligible category is provided below.

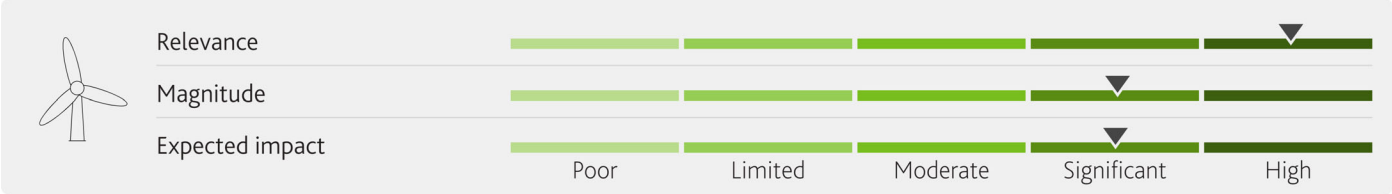
Energy efficiency

The projects have significant relevance to reduce the carbon footprint in the telecommunications sector. The information communication and technology sector is responsible for nearly 1% of energy related greenhouse gas emissions (GHG).[1] The sector's relatively modest share of GHG emissions is attributed in part to energy efficiency improvements to network equipment and the broad adoption of fiber cables in the last decade. Fiber cable deployment combined with a gigabit passive optical access network is one of the most energy-efficient technologies because of its inherent passive network structure that uses less power and fewer active hardwares for data transmission compared to legacy copper and coaxial cable networks. However, fiber coverage remains below that of cable

services. According to the Fiber Broadband Association[2], fiber only accounts for 20% of the market share in the US compared to over 50% for cable. With the expected rise in demand for digital services in the foreseeable future, investments in energy-efficient fiber networks are crucial to prevent even higher emissions stemming from less energy-efficient networks.

The magnitude of the FTTP projects and related network equipment is significant as it will likely generate a positive long-term impact toward climate change mitigation and reduce negative externalities. The carbon reduction potential is significant because of the capabilities of fiber cables to transmit data signals over a longer distance with less hardware support, which in turn reduces the overall energy usage and emissions compared to the energy use in legacy networks. According to information provided by the company, fiber technology is estimated to have carbon savings of 18% compared to digital subscriber lines and 39% compared to cable networks. Fiber cables coupled with the company's commitment to use ENERGY STAR certified supporting equipment will likely drive greater energy savings for broadband services. However, the absolute emissions generated from rising data consumption in an increasingly digitized environment can potentially offset some of the efficiency gains of a fiber broadband network. Moreover, the deployment of the project will likely generate front-loaded emissions because of substantial construction and infrastructure need to expand connectivity to rural areas. Still, the long useful life of fiber cables (40 years), the use of a more resource-efficient material compared to copper wires, as well as the scalability of the technology position fiber favorably in terms of durability. We expect that fiber networks will likely reduce emissions within the sector, help serve as a backbone for 5G technology and drive sustainable benefits in other industries through faster and more efficient connectivity, expanding the reach of the project's benefits beyond its own carbon footprint.

Renewable energy



Projects in this category are highly relevant to mitigate climate change in the telecommunications sector and within the local context. Despite energy efficiency improvements to networks and equipment over the last decade, emissions from purchased electricity (scope 2 emissions) remain the largest share at over 90% of total sector emissions. In the State of Nebraska, which is the company's primary service area, about half of generated electricity is sourced from coal. Given the state's fossil fuel heavy energy mix, and the still substantial share of the sector's scope 2 emissions, investments in renewable energy projects are important to decarbonize the sector and the local grid.

The magnitude of projects is significant. Projects in this category as established in the framework reflect investments in facilities that generate or transmit renewable energy and the procurement of renewable contracts through physical and virtual power purchase agreements. The significant magnitude score reflects our view of the likely impact of all eligible projects within the category, with stronger emission mitigation potential of renewable energy generated from on-site facilities and of those procured through physical power purchase agreements. On-site facilities and physical power purchase agreements are stronger mitigation strategies because the procured energy can be directly attributed to the company's assets. Renewable energy acquired through virtual agreements are weaker in comparison because of the indirect procurement of renewables in the marketplace to abate emissions from company-owned facilities. Although the category captures a wide variety of renewable energy projects, the company does not currently expect any near-term allocations to generation projects and plans to primarily secure renewable energy through physical and virtual power purchase agreements.

Access to essential services

The investments in fiber deployment have significant relevance to address the digital divide, a key issue in the telecommunications sector. The company aims to provide high quality internet access to unconnected and underserved areas to bridge the urban-rural digital divide. Broadband adoption and access in the US are generally good. The 2021 five-year American Community Survey (ACS) data estimates that 87% of US households have broadband (fixed, mobile, satellite) subscriptions, and of that, roughly 72% had a subscription to fixed broadband (cable, fiber optic, DSL) services.[3] The US broadband adoption rate compares favorably to EU countries such as France, Italy, Denmark and Germany.[4] However, broadband access is disparate across US urban-rural areas. According to the Federal Communications Commission, approximately 17% and 21% of the population in rural and tribal lands respectively, lack coverage from fixed terrestrial 25/3 Mbps broadband, as compared to only 1% in urban areas.[5] High speed internet coverage is even more limited in low-income and marginalized communities, as it is less economically feasible for providers to service these markets.

The magnitude of the projects is high and will likely generate a positive long-term impact for a highly vulnerable target population to bridge the digital divide. ALLO aims to expand affordable fiber broadband access through the federal Affordable Connectivity Program (ACP), which includes a broad eligibility criterion including low-income households, veterans and participants in federal housing and other government assistance programs. ACP-eligible households can receive discounts on their monthly internet service rate with higher discounts provided to households on qualifying tribal lands. Extension of broadband connectivity to students will also be administered through ALLO's external partnership with Eduroam which aims to bridge the educational divide and facilitate the digital learning of unconnected students.

ESG risk management

We have not applied a negative adjustment for ESG risk management to the expected impact score. Eligible projects are aligned with ALLO's internal guidelines, policies and risk management procedures, as well as the applicable social and environmental standards and regulations. Social risks are addressed through ALLO's EHSS management system as well as an environmental, health and safety policy, which covers provisions for a safe workplace. In addition, ALLO works with federal, state and local governments, as well as other stakeholders, including railroads, power companies and engineers to mitigate environmental risks. Potential externalities are identified and assessed through the approval, permitting, construction and operation phase of projects. Furthermore, ALLO has internal procedures and policies to manage e-waste, and performs security audits to safeguard customer data security and privacy.

Coherence

We have not applied a negative adjustment for coherence to the expected impact score. Projects to be financed under the framework align with ALLO's sustainability strategy, including expanding fiber broadband connectivity to its service areas and across underserved and unconnected communities to bridge the digital divide. The projects are closely aligned with the company's core business activities, which include the provision of symmetrical high speed fiber broadband services.

Appendix 1 — Mapping eligible categories to the United Nations' Sustainable Development Goals

The three eligible categories included in ALLO's framework are likely to contribute to five of the UN SDGs, namely:

UN SDG 17 Goals	Eligible Category	SDG Targets
GOAL 7: Affordable and Clean Energy	*Renewable energy*	7.2: Increase substantially the share of renewable energy in the global energy mix
	Energy efficiency	7.3: Double the global rate of improvement in energy efficiency
GOAL 8: Decent Work and Economic Growth	*Access to essential services*	8.2: Achieve higher levels of economic productivity through diversification, technological upgrading and innovation
GOAL 9: Industry, Innovation and Infrastructure	*Energy efficiency*	9.4: Upgrade infrastructure and retrofit industries to make them sustainable, with all countries taking action
	Access to essential services	9.C: Increase access to information and communications technology and provide universal and affordable access to the Internet
GOAL 10: Reduced Inequality	*Access to essential services*	10.2: Empower and promote the social, economic and political inclusion of all
GOAL 12: Responsible Consumption and Production	*Energy efficiency*	12.2: Achieve the sustainable management and efficient use of natural resources
GOAL 13: Climate Action	*Renwable energy*	13.1: Strengthen resilience and adaptive capacity to climate-related hazards and natural disasters in all countries

The UN SDGs mapping in this SPO includes the eligible project categories and associated sustainability objectives/benefits documented in the company's financing framework, as well as resources and guidelines from public institutions, such as the ICMA SDG Mapping Guidance and the UN SDG targets and indicators.

Appendix 2 - Summary of eligible categories in ALLO's sustainability financing framework

Eligible Categories	Description	Sustainability Objectives	Impact Reporting Metrics
Energy Efficiency	Investments in or expenditures, including capital expenditures (CAPEX) and research and development (R&D) expenditures, that seek to achieve a minimum of 30% energy savings compared to coaxial or copper cables and comply with the U.S. Environmental Protection Agency's ENERGY STAR Guidelines for Energy Management related to; Network deployment transformation (both mobile and fixed) with a view to base connectivity on the latest technologies, making networks more energy-efficient, including but not limited to: - Modernization of broadband networks, both fixed and mobile (5G deployment) - Optic fiber deployment, with the aim of transforming wireline legacy copper networks into latest generation fiber networks - Improvement of supporting infrastructure with a view to making it more efficient (including but not limited to: free cooling systems, cooling optimization, power modernization, smart management, intelligent lighting or optimization of power storage)	Climate change mitigation	- Energy consumption per data traffic (MWh/equivalent unit) - Expected energy savings (MWh) - Estimated GHG emissions reduced (metric tons of CO2e)
Renewable Energy	Investments in or expenditures including CAPEX and R&D related to: - The development, construction, or operation of facilities, equipment or systems that generate or transmit renewable energy - The purchase of renewable energy pursuant to long-term power purchase agreements or virtual power purchase agreements entered into for electricity generated by wind and solar sources	Climate change mitigation	- Renewable energy capacity commitments (MW) related to newly constructed or rehabilitated projects - % share of electricity consumption from renewable sources - GHG emissions reduced/avoided in metric tons of CO2e
Access to Essential Services	Investments in or expenditures including CAPEX and R&D related to; Network deployment transformation (both mobile and fixed) with a view to base connectivity services in unconnected or underserved areas (rural or remote areas), in order to provide internet access with sufficient bandwidth for digital services networks that are more energy-efficient, including but not limited to: - Provision of services to participants in the Affordable Connectivity Program (ACP) - Provision of service through Eduroam program solving the digital divide Target Populations: - Populations with limited or low-quality acess to broadband networks in rural or remote areas defined as a small town over 40 minutes from an urban area, or a truly rural area over 40 minutes from an urban area - Populations from disdvantaged socioeconomic backgrounds defined as low income communities and individuals, making up to 80% of the area median income and individuals eligible for government assistance programs	Access to broadband services	-% share of customers receiving broadband access for the first time as a consequence of ALLO's services - % share of customers serviced through participation in the ACP program

Moody's related publications

Second Party Opinion analytical framework:

» Framework to Provide Second Party Opinions on Sustainable Debt, October 2022

Topic page:

» ESG Credit and Sustainable Finance

Endnotes

1 International Energy Agency, Data Centres and Data Transmission Networks, September 2022.

2 Pew Trust, How Do Americans Connect to the Internet, July 2022

3 American Community Survey (ACS) 2021 5-year Estimate

4 Information Technology & Innovation Foundation, The State of US Broadband in 2022, December 2022

5 Federal Communications Commission, Fourteenth Broadband Deployment Report, January 2021

Moody's assigns SPOs in alignment with the main tenets of the ICMA Guidelines for Green, Social, Sustainability and Sustainability-Linked Bonds External Reviews and the LSTA/LMA/APLMA Guidance for Green, Social and Sustainability-Linked Loans External Reviews, as applicable; Moody's practices may however diverge in some respects from the practices recommended in those documents. Moody's approach to assigning SPOs is described in its Assessment Framework, and is subject to the ethical and professional principles set forth in the Moody's Investors Service Code of Professional Conduct.

Additional terms with respect to Second Party Opinions (as defined in Moody's Investors Service Rating Symbols and Definitions): Please note that a Second Party Opinion ("SPO") is not a "credit rating". The issuance of SPOs is not a regulated activity in many jurisdictions, including Singapore. JAPAN: In Japan, development and provision of SPOs fall under the category of "Ancillary Businesses", not "Credit Rating Business", and are not subject to the regulations applicable to "Credit Rating Business" under the Financial Instruments and Exchange Act of Japan and its relevant regulation. PRC: Any SPO: (1) does not constitute a PRC Green Bond Assessment as defined under any relevant PRC laws or regulations; (2) cannot be included in any registration statement, offering circular, prospectus or any other documents submitted to the PRC regulatory authorities or otherwise used to satisfy any PRC regulatory disclosure requirement; and (3) cannot be used within the PRC for any regulatory purpose or for any other purpose which is not permitted under relevant PRC laws or regulations. For the purposes of this disclaimer, "PRC" refers to the mainland of the People's Republic of China, excluding Hong Kong, Macau and Taiwan.

MJKK or MSFJ (as applicable) hereby disclose that most issuers of debt securities (including corporate and municipal bonds, debentures, notes and commercial paper) and preferred stock rated by MJKK or MSFJ (as applicable) have, prior to assignment of any credit rating, agreed to pay to MJKK or MSFJ (as applicable) for credit ratings opinions and services rendered by it fees ranging from JPY100,000 to approximately JPY550,000,000.
MJKK and MSFJ also maintain policies and procedures to address Japanese regulatory requirements.

REPORT NUMBER 1365834

COVER SHEET

MEETING DATE
March 6, 2025

AGENDA ITEM

Introduction, first reading, consideration of a motion to order published by title only and adopt by emergency measure Ordinance 8690 authorizing the issuance by the City of Boulder, Colorado, acting through its Stormwater and Flood Management Utility Enterprise, of its Stormwater and Flood Management Revenue Bonds, Series 2025 for the purpose of providing funds to acquire, construct, improve and equip various stormwater and flood mitigation improvements for the first phase of the South Boulder Creek flood mitigation project, including the acquisition of ownership and easement interests in land necessary for such improvements; establishing a reserve fund; prescribing the form of the Series 2025 Bonds; setting forth parameters and restrictions with respect to the Series 2025 Bonds; authorizing a competitive sale of the 2025 Bonds in an aggregate principal amount of not to exceed $66,000,000; providing for the payment and redemption of the Series 2025 Bonds from and out of the stormwater and flood management fee; providing other details and approving other documents in connection with the Series 2025 Bonds; authorizing city officials to take all action necessary to carry out the transactions contemplated hereby; ratifying actions previously taken; and declaring an emergency and providing the effective date hereof; and setting forth related details

PRIMARY STAFF CONTACT

Ron Gilbert, Assistant Controller

REQUESTED ACTION OR MOTION LANGUAGE

Motion to introduce, order published by title only and adopt by emergency measure Ordinance 8690 authorizing the issuance by the City of Boulder, Colorado, acting through its Stormwater and Flood Management Utility Enterprise, of its Stormwater and Flood Management Revenue Bonds, Series 2025 for the purpose of providing funds to acquire, construct, improve and equip various stormwater and flood mitigation improvements for the first phase of the South Boulder Creek flood mitigation project, including the acquisition of ownership and easement interests in land necessary for such improvements; establishing a reserve fund; prescribing the form of the Series 2025 Bonds; setting forth parameters and restrictions with respect to the Series 2025 Bonds; authorizing a competitive sale of the 2025 Bonds in an aggregate principal amount of not to exceed $66,000,000; providing for the payment and redemption of the Series 2025 Bonds from and out of the stormwater and flood management fee; providing other details and approving other documents in connection with the

Series 2025 Bonds; authorizing city officials to take all action necessary to carry out the transactions contemplated hereby; ratifying actions previously taken; and declaring an emergency and providing the effective date hereof; and setting forth related details

ATTACHMENTS:

Description

- **Item 3E - 1st Rdg Emergency Ord 8690 authorizing the issuance by the City of Boulder, Colorado, acting through its Stormwater and Flood Management Utility Enterprise, of its Stormwater and Flood Management Revenue Bonds, series 2025**

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: March 6, 2025

AGENDA TITLE

Introduction, first reading, consideration of a motion to order published by title only, and adopt by emergency measure Ordinance 8690 authorizing the issuance by the City of Boulder, Colorado, acting through its Stormwater and Flood Management Utility Enterprise, of its Stormwater and Flood Management Revenue Bonds, Series 2025 for the purpose of providing funds to acquire, construct, improve and equip various stormwater and flood mitigation improvements for the first phase of the South Boulder Creek flood mitigation project, including the acquisition of ownership and easement interests in land necessary for such improvements; establishing a reserve fund; prescribing the form of the Series 2025 Bonds; setting forth parameters and restrictions with respect to the Series 2025 Bonds; authorizing a competitive sale of the 2025 Bonds in an aggregate principal amount of not to exceed $66,000,000; providing for the payment and redemption of the Series 2025 Bonds from and out of the stormwater and flood management fee; providing other details and approving other documents in connection with the Series 2025 Bonds; authorizing city officials to take all action necessary to carry out the transactions contemplated hereby; ratifying actions previously taken; and declaring an emergency and providing the effective date hereof; and setting forth related details.

PRESENTERS

Nuria Rivera-Vandermyde, City Manager
Teresa Taylor Tate, City Attorney
Joel Wagner, Interim Chief Financial Officer
Joe Taddeucci, Utilities Director
Chris Douville, Utilities Deputy Director of Operations
Chris Douglass, Utilities Civil Engineering Senior Manager
Brandon Coleman, Utilities Civil Engineering Manager
Steph Klingeman, Utilities Principal Budget Analyst
Ron Gilbert, Assistant Controller

EXECUTIVE SUMMARY

City Council is asked to consider approval of the following documents: 1. Proposed Emergency Ordinance 8690 (**Attachment A**) authorizing the issuance of the 2025 Bonds with the following parameters: the aggregate principal amount of the 2025 Bonds shall not exceed $66,000,000, the final maturity date shall be no later than December 1, 2044, the net effective interest rate shall not exceed 5.25%, and delegating approval of the final terms of the 2025 Bonds to the interim chief financial officer or the city manager following a competitive sale and approving the Notice of Bond Sale prescribing certain details for the competitive sale of the 2025 Bonds; and 2. the Preliminary Official Statement (POS) (**Attachment B**) to be distributed in connection with the offering of the 2025 Bonds.

The Bond proceeds will be used to fund capital improvements to the city's Stormwater and Flood Management Utility (the "Project"). The city currently expects the Project will be comprised of the first phase of the South Boulder Creek Flood Mitigation Project. The city retains the discretion, however, to fund different or additional capital improvement projects for the Stormwater and Flood Management Utility.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to introduce, order published by title only, and adopt by emergency measure Ordinance 8690 authorizing the issuance by the City of Boulder, Colorado, acting through its Stormwater and Flood Management Utility Enterprise, of its Stormwater and Flood Management Revenue Bonds, Series 2025 for the purpose of providing funds to acquire, construct, improve and equip various stormwater and flood mitigation improvements for the first phase of the South Boulder Creek flood mitigation project, including the acquisition of ownership and easement interests in land necessary for such improvements; establishing a reserve fund; prescribing the form of the Series 2025 Bonds; setting forth parameters and restrictions with respect to the Series 2025 Bonds; authorizing a competitive sale of the 2025 Bonds in an aggregate principal amount of not to exceed $66,000,000; providing for the payment and redemption of the Series 2025 Bonds from and out of the stormwater and flood management fee; providing other details and approving other documents in connection with the Series 2025 Bonds; authorizing city officials to take all action necessary to carry out the transactions contemplated hereby; ratifying actions previously taken; and declaring an emergency and providing the effective date hereof; and setting forth related details

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- **Economic** - The stormwater infrastructure Project will support economic goals by enhancing resiliency through flood risk reduction, safeguarding local community members, property, major utilities, and transportation infrastructure, including US-36 and Foothills Parkway, from costly damage, and promoting long-term economic stability.

- **Environmental** - The stormwater infrastructure is planned, designed, and built to minimize construction impacts to the environment, and includes significant environmental mitigation features that go above and beyond formal permitting requirements.
- **Social** – The stormwater infrastructure Project improves public safety by reducing flood hazards, protecting homes and critical infrastructure, and fostering a more resilient community. Reliable and effective stormwater management is essential to the health, safety, and well-being of the community.

OTHER IMPACTS

- **Fiscal** - The issuance of the bonds will address major capital needs of the utility that are summarized in the Key Project Identification section of this Agenda Memorandum. The annual debt service payments will be made from revenues collected in the Stormwater and Flood Management Fund, the first of which was included in the 2025 approved budget.
- **Staff time** - Administration of the revised debt service on this Bond issue is part of normal staff time that is included in the appropriate department budgets.

RESPONSES TO QUESTIONS FROM COUNCIL AGENDA COMMITTEE

None

BOARD AND COMMISSION FEEDBACK

The Bond related projects included in this Memorandum along with the corresponding bond issuance are part of the Utilities CIP plan which was recommended by the Water Resources Advisory Board (WRAB) in July 2024 (as well as prior years).

PUBLIC FEEDBACK

Extensive public outreach was done on the Project and public feedback was taken into consideration. While the city typically does not solicit public feedback on bonds, some community members have sent emails commenting on the bond approach and staff have responded.

BACKGROUND AND ANALYSIS

Key Project Identification

The Project will involve capital improvements within the city's Stormwater and Flood Mitigation Utility. A key component is the South Boulder Creek Flood Mitigation project, designed to reduce flood risks for community members and critical infrastructure. Within city limits, approximately 600 structures and 3,500 people are located in the South Boulder Creek floodplain. Over the past 80 years, South Boulder Creek has experienced significant flooding six times, with US-36 overtopped in both 1969 and 2013. When US-36 is overtopped, floodwaters impact an area within the city known as the "West Valley."

The primary goal of the first phase of the South Boulder Creek Flood Mitigation Project is to protect community members, property, major utilities, and transportation infrastructure—including US-36 and Foothills Parkway—while minimizing impacts to city open space. City staff have collaborated with CU-Boulder and the Colorado Department of Transportation (CDOT) to develop the Project's design.

Key Project elements include a 470-acre-foot stormwater detention facility, a 2,300-foot-long spillway, and outlet works that will direct detained water under US-36 before returning it to South Boulder Creek. The Project also required property acquisition as part of the Annexation Agreement between the city and CU-Boulder, approved in 2021. The Annexation Agreement included approximately 36 acres for the flood mitigation project, with the potential for the city to acquire an additional 119 acres for open space.

To complete this Bond offering, the City Council is requested to approve:

The attached parameter bond Proposed Emergency Ordinance 8690, **Attachment A**, which authorizes the 2025 Bonds in an amount not to exceed $66,000,000, with a final maturity date not later than December 1, 2044, and a net effective interest rate shall not exceed 5.25%, and delegates approval of the final terms of the 2025 Bonds to the chief financial officer, interim chief financial officer or designee, or, if such person is not available, the city manager following a competitive sale; and authorizes such person to call for a public competitive sale of the 2025 Bonds on such date as such person determines (currently set as April 15, 2025), and approves the form of the Notice of Bond Sale and approves the POS that is included as **Attachment B**. This process is consistent with the way that the city has been handling bond ordinances for several years and eliminates the scheduling conflicts between the financial processes associated with the bond and the city processes associated with an ordinance. The POS and the Notice of Bond Sale will be distributed to potential bond buyers to provide information required to make an informed financial decision regarding the possible purchase of the 2025 Bonds.

The 2025 budget adopted by City Council in October 2024 included the appropriation of the annual debt service associated with supporting the bond issuance for this project. In addition, the 2025 budget included within the six-year capital improvement program the plan to appropriate the project funds at the time of the bond sale. As planned, Ordinance 8689 included as a separate Special Adjustment-to-Base (ATB) item within this council meeting agenda will appropriate $66.0M to the Stormwater and Flood Management Fund. This Special ATB will appropriate funds to support this project.

Additional Information Regarding a Bond Sale by the city:

Ratings – The city applied to Standard & Poor's for ratings on these Bonds. Standard & Poor's is one of the major rating services in the United States. The rating review meeting between Standard & Poor's and the city will be on March 18, 2025. The current bond rating for the Stormwater Revenue bonds is AAA from Standard and Poor's. This is an excellent rating for this type of bond in Colorado. Credit ratings are made after analyzing the credit worthiness of the issuer and the quality of the bond being issued. The ratings are then used by potential buyers of the bonds as one of the determinants in whether they will purchase the bonds or not. The highest investment grade rating given is AAA and the lowest is BBB. The city expects to get the results of the rating call with Standard & Poor's later that week and will share the results with the council.

Lowest Bid Evaluation – The city's Charter requires bonds to be sold to the best advantage of the city. Because it incorporates the time value of money, the true interest cost ("TIC") method of evaluating the cost of an issue has become the norm in the industry to determine winning bids for competitive underwritings. Technically it is defined as that semiannual discount rate which equates the principal and interest payments on the bonds to the purchase price paid by the underwriters to the issuer. In a competitive sale, all the bonds are purchased by one bidder and the bids are submitted

electronically through the i-Deal Parity electronic bidding system ("PARITY").

Continuing Disclosure Procedures and Required Follow Up Over the Lifetime of the Bonds – Due to actions taken by the Securities Exchange Commission (SEC) in 2014, continuing disclosure and adherence to reporting requirement commitments has become a much more serious concern in the eyes of the SEC. Continuing disclosure consists of important information about a municipal bond that arises after the initial issuance of the bonds. This information generally reflects the financial health or operating condition of the state of local government as it changes over time, or the occurrence of specific events that can have an impact on key features of the Bonds. The city has systems in place to ensure all required continuing disclosure requirements are met.

NEXT STEPS

- April 15, 2025: 9:30 a.m. Competitive Sale of Bonds – Competitive bids from underwriters will be submitted electronically to the city by means of PARITY. The 2025 Bonds will be awarded to the bidder offering to purchase the 2025 Bonds at the lowest TIC. The final terms of the 2025 Bonds will be set forth in a Sale Certificate approved by the chief financial officer or city manager pursuant to the authority delegated to them in the Emergency Ordinance 8690.

- April 30, 2025: Closing on the Bond sale – By this date, all bond documents will be signed and the funds from the sale will be received.

ATTACHMENTS

A – Proposed Emergency Ordinance 8690
B – Draft Preliminary Official Statement

ORDINANCE 8690

AN EMERGENCY ORDINANCE AUTHORIZING THE ISSUANCE BY THE CITY OF BOULDER, COLORADO, ACTING THROUGH ITS STORMWATER AND FLOOD MANAGEMENT UTILITY ENTERPRISE, OF ITS STORMWATER AND FLOOD MANAGEMENT REVENUE BONDS, SERIES 2025 FOR THE PURPOSE OF PROVIDING FUNDS TO ACQUIRE, CONSTRUCT, IMPROVE AND EQUIP VARIOUS STORMWATER AND FLOOD MITIGATION IMPROVEMENTS FOR THE FIRST PHASE OF THE SOUTH BOULDER CREEK FLOOD MITIGATION PROJECT, INCLUDING THE ACQUISITION OF OWNERSHIP AND EASEMENT INTERESTS IN LAND NECESSARY FOR SUCH IMPROVEMENTS; ESTABLISHING A RESERVE FUND; PRESCRIBING THE FORM OF THE SERIES 2025 BONDS; SETTING FORTH PARAMETERS AND RESTRICTIONS WITH RESPECT TO THE SERIES 2025 BONDS; AUTHORIZING A COMPETITIVE SALE OF THE 2025 BONDS IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED $66,000,000; PROVIDING FOR THE PAYMENT AND REDEMPTION OF THE SERIES 2025 BONDS FROM AND OUT OF THE STORMWATER AND FLOOD MANAGEMENT FEE; PROVIDING OTHER DETAILS AND APPROVING OTHER DOCUMENTS IN CONNECTION WITH THE SERIES 2025 BONDS; AUTHORIZING CITY OFFICIALS TO TAKE ALL ACTION NECESSARY TO CARRY OUT THE TRANSACTIONS CONTEMPLATED HEREBY; RATIFYING ACTIONS PREVIOUSLY TAKEN; AND DECLARING AN EMERGENCY AND PROVIDING THE EFFECTIVE DATE HEREOF; AND SETTING FORTH RELATED DETAILS

All capitalized terms used herein shall have the meaning set forth in Section 1.02 of this Bond Ordinance.

WHEREAS, the City of Boulder (the "City"), in the County of Boulder and the State of Colorado (the "State"), is a municipal corporation duly organized and existing as a home-rule city pursuant to Article XX of the Constitution of the State (the "Constitution") and the Charter of the City (the "Charter"); and

WHEREAS, the City now owns, operates and maintains a stormwater and flood management utility in the utilities department (as hereinafter defined, the "Stormwater and Flood Management Utility Enterprise"); and

WHEREAS, Ordinance No. 5601, introduced, read, passed and adopted on the 9th day of November 1993, and Ordinance No. 7400 (2004) (collectively, the "Enterprise Ordinance"), established the City's "Stormwater and Flood Management Utility Enterprise" to operate and maintain City's stormwater and flood management system and added Sections 11-5-1 to 11-5-20 to the Boulder Revised Code, 1981 (the "City Code"); and

WHEREAS, the City has established a Stormwater and Flood Management Fee pursuant to Section 4-20-45, B.R.C. 1981 (the "Fee"), and the Fee is billed monthly to customers of the City's sewer and water system; and

WHEREAS, Article X, Section 20 of the State Constitution ("TABOR") requires that bonded debt (other than certain refunding bonds) not be issued without prior voter approval unless the issuer is an "Enterprise" as defined in TABOR; and

WHEREAS, pursuant to the Charter, the Enterprise Ordinance and Section 11-5-18 of the City Code, the Stormwater and Flood Management Utility Enterprise may issue revenue bonds payable from the Fee and other revenues derived from the operation of such enterprise without voter approval so long as such Stormwater and Flood Management Utility Enterprise qualifies as an "Enterprise" within the meaning of TABOR during the City's fiscal year of the issuance of such revenue bonds; and

WHEREAS, the Stormwater and Flood Management Utility Enterprise is an "Enterprise" within the meaning of TABOR; and

WHEREAS, the City Council of the City (the "Council") is the governing body of the Stormwater and Flood Management Utility Enterprise and the Council need not announce or acknowledge that actions taken by the Council are taken by the governing body of the Stormwater and Flood Management Utility Enterprise; and

WHEREAS, the current outstanding bonds payable from, and the payment of which is secured by Net Income (defined herein) derived from the Fee as provided herein are the bonds designated as the Stormwater and Flood Management Revenue Refunding Bonds, Series 2015 (the "Series 2015 Bonds" and the "Outstanding Parity Bonds") issued in the original principal amount of $22,845,000 and currently outstanding in the aggregate principal amount of $13,415,000 issued in accordance with Ordinance No. 8051 of the City (the "Series 2015 Ordinance"); and

WHEREAS, for the purpose of providing funds to (a) acquire, construct, improve and equip certain stormwater and flood mitigation improvements for the first phase of the South Boulder Creek flood mitigation project, including the acquisition of ownership and easement interests in land necessary for such improvements, (b) establish a reserve fund and (c) pay all necessary, incidental and appurtenant expenses in connection therewith, including the costs of issuance, the Council has determined, and does hereby declare its intent to issue, acting through its Stormwater and Flood Management Utility Enterprise, its City of Boulder, Colorado Stormwater and Flood Management Revenue Bonds, Series 2025 (the "Series 2025 Bonds") in the aggregate principal amount not to exceed $66,000,000, pursuant to the Charter and the Supplemental Public Securities Act (being Part 2, Articles 57, Title 11 of the Revised Statutes of the State of Colorado) as now in effect and as it may from time to time be amended (the "Supplemental Public Securities Act"); and

WHEREAS, the City shall arrange for the sale of the Series 2025 Bonds by means of a competitive sale through the i-Deal Parity electronic bidding system, as the City through its Chief Financial Officer shall direct; and the responsible bidder bidding the lowest actuarial yield on the Series 2025 Bonds shall be the Initial Purchaser of the Series 2025 Bonds, whose bid is in all cases to the best advantage of the City in accordance with Section 98 of the Charter; and

WHEREAS, there will be distributed in connection with the offering of the Series 2025 Bonds, a Notice of Bond Sale (the "Notice of Bond Sale"), a Preliminary Official Statement (the

"Preliminary Official Statement") and a final Official Statement (the "Final Official Statement") relating to the Series 2025 Bonds as approved by the Mayor, Chief Financial Officer or City Manager of the City; and

WHEREAS, except as hereinabove provided with respect to the Outstanding Parity Bonds, the City has not pledged, nor in any way hypothecated, the Net Income derived from the Fee to the payment of any bonds or for any other purpose (excluding proceedings authorizing the issuance of any bonds which have heretofore been paid in full, or provision for the payment thereof in full has been made), with the result that the resulting Net Income may now be pledged lawfully and irrevocably for payment of the Series 2025 Bonds herein authorized on a parity with the Outstanding Parity Bonds as provided herein; and

WHEREAS, a reserve fund for the Series 2025 Bonds will be funded with other monies of the Stormwater and Flood Management Utility Enterprise; and

WHEREAS, the Series 2015 Ordinance includes certain financial tests that must be met prior to the issuance of any additional bonds payable from the Net Income; and

WHEREAS, the Series 2025 Bonds are being issued in compliance with the Series 2015 Ordinance authorizing the Outstanding Parity Bonds; and

WHEREAS, the Series 2025 Bonds shall be secured by an irrevocable and first and prior (but not exclusive) lien upon the Net Income and upon moneys deposited from time to time in the 2025 Bond Fund and the 2025 Reserve Fund for the Series 2025 Bonds; and

WHEREAS, none of the members of the Council have any potential conflicting interests in connection with the authorization of the loan or the issuance and delivery of the Series 2025 Bonds, or the use of the proceeds thereof; and

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

ARTICLE I

SHORT TITLE, DEFINITIONS, INTERPRETATION, RATIFICATION, AUTHENTICATION, PUBLICATION AND EFFECTIVE DATE

Section 1.01. Short Title. This bond ordinance may be designated by the short title "Series 2025 Bond Ordinance" (the "Bond Ordinance").

Section 1.02. Meanings and Construction.

(a) ***Definitions***. The terms in this Section defined for all purposes of this Bond Ordinance and of any ordinance amendatory hereof or supplemental hereto, and of any other ordinance or any other document appertaining hereto), except where the context by clear implication otherwise requires, shall have the meanings herein specified:

"*Bond Counsel*" means (a) as of the date of issuance of the Series 2025 Bonds, Kutak Rock LLP; and (b) as of any other date, Kutak Rock LLP or such other attorneys selected by the City with nationally recognized expertise in the issuance of municipal obligations.

"*Chief Financial Officer*" shall mean the Chief Financial Officer or Interim Chief Financial Officer of the City, or his or her designee.

"*City*" means the City of Boulder, Colorado, and its successors.

"*City Manager*" means the City Manager of the City.

"*Clerk*" means the City Clerk of the City.

"*Code*" means the Internal Revenue Code of 1986, as amended.

"*Continuing Disclosure Undertaking*" means the Continuing Disclosure Undertaking of the City, dated the date of issuance of the Series 2025 Bonds, in the form set forth as Appendix C to the Official Statement.

"*Council*" shall mean the City Council of the City.

"*Dated Date*" means the original dated date for the Series 2025 Bonds, which shall be the date of delivery of the Series 2025 Bonds or such other date as established in the Sale Certificate.

"*DTC*" shall mean The Depository Trust Company, New York, New York, or its successors or assigns and any other securities depository for the Series 2025 Bonds.

"*Enabling Laws*" means the Charter, the Enterprise Ordinance and the Supplemental Public Securities Act, each as may be amended.

"*Event of Default*" shall mean any of the events stated in Section 10.03 hereof.

"*Fee*" shall mean the Stormwater and Flood Management Fee billed to customers of the City's water and sewer systems pursuant to Section 4-20-45, B.R.C. 1981, as amended.

"*Federal Securities*" shall mean bills, certificates of indebtedness, notes, bonds, or similar securities which are direct obligations of, or the principal and interest of which securities are unconditionally guaranteed by, the United States of America or evidences of such indebtedness which are noncallable at the option of the City thereof.

"*Fiscal Year*" for the purposes of this Bond Ordinance means the Fiscal Year of the City as provided by State law.

"*Gross Income*" shall mean all income and revenues derived directly or indirectly by the City from the Fee, including interest earnings on moneys in any fund or account created by this Bond Ordinance and includes all revenues earned by the City therefrom.

"*Hereby*," "*herein*," "*hereinabove*," "*hereinafter*," "*hereinbefore*," "*hereof*," "*hereto*," "*hereunder*," and any similar term refer to this Bond Ordinance and not solely to the particular portion thereof in which such work is used; "heretofore" means before the adoption of this Bond Ordinance; and "hereafter" means after the adoption of this Bond Ordinance.

"*Independent Accountant*" shall mean any certified public accountant, or any firm of such certified public accountants, duly licensed to practice and practicing as such under the laws of the State, appointed and paid by the Council, in the name of the City, as determined by the Council:

(i) who is, in fact, independent and not under the domination of the City;

(ii) who does not have any substantial interest, direct or indirect, with the City; and

(iii) who is not connected with the City as an officer or employee thereof, but who may be regularly retained to make annual or similar audits of any books or records of the City.

"*Initial Purchaser*" has the meaning set forth in the recitals hereof.

"*Insured Bank*" shall mean a bank which is a member of the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation.

"*Interest Payment Date*" means each June 1 and December 1, commencing on June 1, 2025, or such other dates set forth in the Sale Certificate.

"*Issuance Expense Fund*" means the "City of Boulder, Colorado, Stormwater and Flood Management Revenue Bonds, Series 2025 Issuance Expense Fund" created in Section 4.01(a) hereof.

"*Maturity Date*" means the final date on which the principal of the Series 2025 Bonds is due and payable as set forth in the Sale Certificate.

"*Mayor*" shall mean the Mayor or the Mayor Pro-Tem of the City.

"*Municipal Advisor*" means Hilltop Securities Inc. of Denver, Colorado.

"*Net Income*" shall mean Gross Income, less Operations and Maintenance Expenses.

"*Operation and Maintenance Expenses*" shall mean all reasonable and necessary current expenses of the City, paid or accrued, of operating, maintaining and repairing the Stormwater and Flood Management Utility System as may be designated; and the term may include at the City's option (except as limited by law), without limiting the generality of the foregoing, engineering, auditing, reporting, legal and other overhead expenses of the City directly related to the administration, operation and maintenance thereof, insurance and fidelity bond premiums, the reasonable charges of the Paying Agent and any other depositary bank appertaining thereto, payments to pension, retirement, health and hospitalization funds, any taxes, assessments or other charges which may be lawfully imposed on the City or its income or operations of any properties under its control and appertaining thereto, ordinary and current rentals of equipment or other property, refunds of any revenues lawfully due to others, expenses in connection with the issuance of bonds or other securities evidencing any loan to the City and payable from Gross Income, the expenses and compensation of any trustee or other fiduciary, contractual services and professional services required by this Bond Ordinance, salaries, labor and the cost of materials and supplies used for current operation, and all other administrative, general and commercial expenses, but:

(i) excluding any allowance for depreciation or any amounts for capital replacements;

(ii) excluding the costs of improvements, extensions, enlargements and betterments (or any combination thereof) that qualify as capital items in accordance with generally accepted accounting principles, or any reserves therefor;

(iii) excluding any reserves for operation, maintenance or repair of the Stormwater and Flood Management Utility System;

(iv) excluding any allowance for the redemption of any bond or other security evidencing a loan, or the payment of any interest on any bond or other security evidencing a loan, or any reserve therefor; and

(v) excluding liabilities incurred by the City as the result of its negligence in the operation of the Stormwater and Flood Management Utility System or other ground of legal liability not based on contract, or any reserve therefor.

"*Outstanding*" shall mean, when used with reference to bonds and as of any particular date, all bonds payable from the Fee in any manner theretofore and thereupon being executed and delivered:

(i) except any bond canceled by the City, by the Paying Agent, or otherwise on the City's behalf, at or before said date;

(ii) except any bond for the payment or the redemption of which moneys at least equal to the principal amount of, any prior redemption premium due in connection with, and the interest on the bond to the date of maturity or the prior

redemption date, shall have theretofore been deposited with a commercial bank in escrow or in trust for that purpose, as provided in Section 9.01 hereof; and

(iii) except any bond in lieu of or in substitution for which another bond shall have been executed and delivered pursuant to Section 3.08, 3.09 or 11.08 hereof.

"*Parity Bonds*" shall mean bonds or other obligations payable from the Fee on a parity with the Series 2025 Bonds herein authorized to be issued, including the Series 2015 Bonds.

"*Paying Agent*" shall mean U.S. Bank Trust Company National Association, or its successors or assigns, acting as, among other things, paying agent, registrar and authenticating agent under this Bond Ordinance.

"*Paying Agent Agreement*" shall mean the Paying Agent Agreement, by and between the City and the Paying Agent, dated as of the date of issuance of the Series 2025 Bonds.

"*Permitted Investments*" means any investment permitted by the laws of the State and the City's investment policies.

"*Person*" shall mean a corporation, firm, other body corporate, partnership, association, or individual, and also includes an executor, administrator, trustee, receiver or other representative appointed according to law.

"*Principal Payment Date*" means December 1, or such other date or dates of each year as established in the Sale Certificate for payment of principal of the Series 2025 Bonds.

"*Project*" means the acquisition, construction, improvement and equipping of certain stormwater and flood mitigation improvements for the first phase of the South Boulder Creek flood mitigation project, including the acquisition of ownership and easement interests in real property necessary for such improvements, and any other capital improvements with respect to the Stormwater and Flood Management Utility System.

"*Project Fund*" means the "City of Boulder, Colorado Stormwater Revenue Bonds, Series 2025 Project Fund" created in Section 4.01(c) hereof.

"*Record Date*" means the 15th day of the month prior to each Interest Payment Date with respect to the Series 2025 Bonds.

"*Registered Owner*" shall mean the Person or Persons in whose name or names a Series 2025 Bond shall be registered on the registration books of the City maintained by the Paying Agent.

"*Sale Certificate*" means the certificate executed by the Sale Delegate under the authority delegated pursuant to this Bond Ordinance, which sets forth certain financial terms of the Series 2025 Bonds.

"*Sale Delegate*" means the Chief Financial Officer of the City or, in the event such person is unavailable, the City Manager.

"*Series 2015 Bonds*" shall mean the "City of Boulder, Colorado, Stormwater and Flood Management Revenue Bonds, Series 2015."

"*Series 2015 Ordinance*" means Ordinance No. 8051, introduced, passed and adopted by the Council on the 16th day of June 2015.

"*Series 2025 Bonds*" shall mean the "City of Boulder, Colorado, Stormwater and Flood Management Revenue Bonds, Series 2025."

"*State*" shall mean the State of Colorado.

"*Stormwater and Flood Management Fee Fund*" shall mean the "City of Boulder Stormwater and Flood Management Fee Fund" created in Section 5.02 hereof.

"*Stormwater and Flood Management Utility Enterprise*" shall have the meaning set forth in the introductory clauses of this Ordinance.

"*Stormwater and Flood Management Utility System*" formerly known as "*Flood Control System*," shall mean the City's stormwater and flood management system operating as the City's Stormwater and Flood Management Utility Enterprise and constituting an "enterprise" under Article X, Section 20 of the Colorado Constitution.

"*Subordinate Bonds*" shall mean bonds payable from Net Income subordinate and junior to the lien of the Outstanding Parity Bonds herein authorized to be issued.

"*Tax Certificate*" shall mean the Tax Compliance Certificate of the City concerning the tax status of the Series 2025 Bonds, dated the Dated Date.

"*Tax Letter of Instructions*" shall mean the Tax Letter of Instructions, dated the date of delivery of the Series 2025 Bonds, delivered by Bond Counsel to the City as part of the Tax Certificate, as the same may be superseded or amended in accordance with its terms.

"*2015 Bond Fund*" shall mean the "City of Boulder, Colorado, Stormwater and Flood Management Revenue Bonds, Series 2015, Bond Fund" created in the Series 2015 Ordinance.

"*2015 Minimum Bond Reserve*" means the "Minimum Bond Reserve," as defined in the Series 2015 Ordinance.

"*2015 Reserve Fund*" shall mean the "City of Boulder, Colorado, Stormwater and Flood Management Revenue Bonds, Series 2015, Reserve Fund" created in the Series 2015 Ordinance.

"*2025 Bond Fund*" shall mean the "City of Boulder, Colorado, Stormwater and Flood Management Revenue Bonds, Series 2025, Bond Fund" created in Section 5.05 hereof.

"*2025 Minimum Bond Reserve*" shall mean with respect to the Series 2025 Bonds the amount set forth in the Sale Certificate, which shall equal the lesser of 125% of the average annual debt service on the Series 2025 Bonds or 10% of the principal amount of the Series 2025 Bonds at the time the Series 2025 Bonds are issued.

"*2025 Rebate Fund*" shall mean the "City of Boulder, Colorado, Stormwater and Flood Management Revenue Bonds, Series 2025, Rebate Fund" created in Section 5.12 hereof.

"*2025 Reserve Fund*" shall mean the "City of Boulder, Colorado, Stormwater and Flood Management Revenue Bonds, Series 2025, Reserve Fund," created in Section 4.01(a) hereof.

"*2025 Reserve Policy*" means the municipal bond debt service reserve insurance policy issued by the 2025 Reserve Policy Provider guaranteeing certain payments from the 2025 Reserve Fund with respect to the Series 2025 Bonds, which shall be credited to the 2025 Reserve Fund.

"*2025 Reserve Policy Provider*" has the meaning set forth in the Sale Certificate.

(b) ***Construction***. This Bond Ordinance, except where the context by clear implication herein otherwise requires, shall be construed as follows:

(i) definitions include both singular and plural;

(ii) pronouns include both singular and plural and cover all genders;

(iii) any percentage of Series 2025 Bonds is to be figured on the unpaid principal amount thereof then Outstanding;

(iv) articles, sections, clauses, paragraphs and subparagraphs mentioned by number, letter, or otherwise, correspond to the respective articles, sections, clauses, paragraphs and subparagraphs of this Bond Ordinance so numbered or otherwise so designated; and

(v) the titles applied to articles, sections, clauses, paragraphs and subparagraphs of this Bond Ordinance are inserted only as a matter of convenience and ease in reference and in no way define, limit or describe the scope or intent of any provisions of this Bond Ordinance.

Section 1.03. Successors. Whenever herein the City or the Council is named or is referred to, such provision shall be deemed to include any successors of the City or the Council, respectively, whether so expressed or not. All of the covenants, stipulations, obligations and agreements by or on behalf of and other provisions for the benefit of the City or the Council contained herein shall bind and inure to the benefit of any such successors and shall bind and inure to the benefit of any officer, board, district, commission, authority, agent or instrumentality to whom or to which there shall be transferred by or in accordance with law any right, power or duty of the City or the Council or of their respective successors, if any, the possession of which is necessary or appropriate in order to comply with any such covenants, stipulations, obligations, agreements or other provisions hereof.

Section 1.04. Parties Interested Herein. Nothing herein expressed or implied is intended or shall be construed to confer upon or give to any Person, other than the City, the Council, and the Registered Owners of the Series 2025 Bonds any right, remedy or claim under or by reason hereof or any covenant, condition or stipulation hereof. All the covenants, stipulations, promises and agreements herein contained by and on behalf of the City shall be for the sole and exclusive benefit of the City, the Council and any Registered Owner of any Series 2025 Bonds.

ARTICLE II

COUNCIL'S DETERMINATIONS; AUTHORITY FOR AND AUTHORIZATION OF PROJECT AND OBLIGATION OF CITY

Section 2.01. Authority for Bond Ordinance. This Bond Ordinance is adopted by virtue of the City's powers as a city organized and operating pursuant to Articles X and XX of the State Constitution, the Charter; the Enterprise Ordinance and the Supplemental Public Securities Act; and the City has ascertained and hereby determines that each and every matter and thing as to which provision is made herein is necessary in order to carry out and to effectuate the purposes of the City in accordance with the Charter.

Section 2.02. Necessity of Project and Series 2025 Bonds. It is necessary and for the best interests of the City and the inhabitants thereof that the City effect the Project and defray the cost thereof by issuing revenue bonds therefor; and the Council hereby so determines and declares.

Section 2.03. Authorization of Project. The Council, on behalf of the City, does hereby determine to acquire, construct, improve and equip certain stormwater and flood mitigation improvements for the first phase of the South Boulder Creek flood mitigation project, including the acquisition of ownership and easement interests in land necessary for such improvements, and make any other capital improvements with respect to the Stormwater and Flood Management Utility System (as defined herein, the "Project"); and the Project is hereby so authorized. The accomplishment of the Project is hereby authorized, approved and ordered and it is hereby determined that the Series 2025 Bonds mature at such time not exceeding the estimated life of the Project.

Section 2.04. Bond Ordinance To Constitute Contract. In consideration of the purchase and the acceptance of the Series 2025 Bonds by those who shall hold the same from time to time, the provisions hereof shall be deemed to be and shall constitute contracts between the City

and the Registered Owners from time to time of the Series 2025 Bonds; and the covenants and agreements herein set forth to be performed on behalf of the City shall be for the equal benefit, protection and security of the Registered Owners of any and all of the Outstanding Series 2025 Bonds, all of which, regardless of the time or times of their issue or maturity, shall be of equal rank without preference, priority or distinction of any of the Series 2025 Bonds over any other thereof, except as otherwise expressly provided in or pursuant to this Bond Ordinance.

Section 2.05. Special Obligations. All of the Series 2025 Bonds, together with the interest accruing thereon, shall be payable and collectible solely out of the Net Income derived from the Fee so pledged; the Registered Owner or Registered Owners thereof may not look to any general or other fund for the payment of principal of and interest on such obligations except the herein designated special funds pledged therefor; the Series 2025 Bonds shall not constitute an indebtedness or a debt within the meaning of any constitutional, the Charter or statutory provision or limitation; and the Series 2025 Bonds shall not be considered or held to be general obligations of the City but shall constitute its special obligations. None of the covenants, agreements, representations and warranties contained herein or in the Series 2025 Bonds issued hereunder, in the absence of any breach thereof, shall ever impose or shall be construed as imposing any liability, obligation or charge against the City or its general credit, payable out of its general fund or out of any funds derived from taxation.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION AND ISSUANCE OF THE SERIES 2025 BONDS

Section 3.01. Authorization and Purpose of the Series 2025 Bonds. Pursuant to and in accordance with the Enabling Laws, the City hereby authorizes, approves and orders that there shall be issued the "City of Boulder, Colorado Stormwater and Flood Management Revenue Bonds, Series 2025," for the purpose of paying the costs of the Project. The Series 2025 Bonds are payable both as to principal and interest solely out of the Net Income derived from the Fee, are hereby authorized to be issued, pursuant to the City's powers as a home rule city, and the City pledges irrevocably but not necessarily exclusively, such Net Income to the payment of the Series 2025 Bonds and the interest thereon. In issuing the Series 2025 Bonds, the City is acting through its Stormwater and Flood Management Utility Enterprise.

Section 3.02. Series 2025 Bond Details.

(a) ***Registered Form, Denominations, Dated Date and Numbering***. The Series 2025 Bonds shall be issued in fully registered form, shall be dated as of the Dated Date, and shall be registered in the names of the Persons identified in the registration books maintained by the Paying Agent pursuant hereto. The Series 2025 Bonds shall be issued in denominations of $5,000 in principal amount or any integral multiple thereof. The Series 2025 Bonds shall be consecutively numbered, beginning with the number one, preceded by the letter "R."

(b) ***Maturity Dates, Principal Amounts and Interest Rates***. The Series 2025 Bonds shall mature on the Principal Payment Date of the years and in the principal

amounts, and shall bear interest at the rates per annum (calculated based on a 360-day year of twelve 30-day months) set forth in the Sale Certificate.

(c) ***Accrual and Dates of Payment of Interest***. Interest on the Series 2025 Bonds shall accrue at the rates set forth in the Sale Certificate from the later of the Dated Date or the latest Interest Payment Date (or in the case of defaulted interest, the latest date) to which interest has been paid in full and shall be payable on each Interest Payment Date.

(d) ***Manner and Form of Payment***. Principal of each Series 2025 Bond shall be payable to the Owner thereof upon presentation and surrender of such Series 2025 Bond at the principal operations office of the Paying Agent or at such other office of the Paying Agent designated by the Paying Agent for such purpose. Interest on each Series 2025 Bond shall be payable by check or draft of the Paying Agent mailed on each Interest Payment Date to the Owner thereof as of the close of business on the corresponding Record Date; provided that interest payable to any Owner may be paid by any other means agreed to by such Registered Owner and the Paying Agent that does not require the City to make moneys available to the Paying Agent earlier than otherwise required hereunder or increase the costs borne by the City hereunder. All payments of the principal of and interest on the Series 2025 Bonds shall be made in lawful money of the United States of America.

(e) ***Delegation for Sale Certificate***. The Council hereby delegates to the Sale Delegate for a period of one year from the date of adoption of the Bond Ordinance the authority to determine the following terms (which shall be set forth in the Sale Certificate for the Series 2025 Bonds) and any other matters that, in the judgment of the Sale Delegate and not inconsistent with the authority conferred by Enabling Laws and the parameters set forth below, are necessary or convenient to be established in the Sale Certificate:

(i) the Dated Date of the Series 2025 Bonds;

(ii) the Principal Payment Date;

(iii) the Interest Payment Dates;

(iv) the aggregate principal amount of the Series 2025 Bonds;

(v) the price at which the Series 2025 Bonds will be sold on a competitive basis;

(vi) the amount of principal of the Series 2025 Bonds maturing in any particular year and the respective interest rates borne by the Series 2025 Bonds;

(vii) the date on which the Series 2025 Bonds may be optionally redeemed;

(viii) the principal amounts, if any, of Series 2025 Bonds subject to mandatory sinking fund redemption and the years in which such Series 2025 Bonds will be subject to such redemption;

(ix) the amount of the 2025 Minimum Bond Reserve for the 2025 Reserve Fund;

(x) the Maturity Date; and

(xi) the details regarding any 2025 Reserve Policy and 2025 Reserve Policy Provider.

(f) ***Sale Parameters***. The authority delegated to the Sale Delegate by this Section shall be subject to the following parameters:

(i) the aggregate principal amount of the Series 2025 Bonds shall not exceed $66,000,000;

(ii) the Maturity Date of the Series 2025 Bonds shall be no later than December 1, 2044; and

(iii) the net effective interest rate on the Series 2025 Bonds shall not exceed 5.25%.

(g) ***Book-Entry Registration***. Notwithstanding any other provision hereof, the Series 2025 Bonds shall be delivered only in book-entry form registered in the name of Cede & Co., as nominee of DTC, acting as securities depository of the Series 2025 Bonds and principal of and interest on the Series 2025 Bonds shall be paid by wire transfer to DTC; provided, however, if at any time the Paying Agent determines, and notifies the City of its determination, that DTC is no longer able to act as, or is no longer satisfactorily performing its duties as, securities depository for the Series 2025 Bonds, the Paying Agent may, at its discretion, either (i) designate a substitute securities depository for DTC and reregister the Series 2025 Bonds as directed by such substitute securities depository; or (ii) terminate the book-entry registration system and reregister the Series 2025 Bonds in the names of the beneficial owners thereof provided to it by DTC. Neither the City nor the Paying Agent shall have any liability to DTC, Cede & Co., any substitute securities depository, any Person in whose name the Series 2025 Bonds are reregistered at the direction of any substitute securities depository, any beneficial owner of the Series 2025 Bonds or any other Person for (A) any determination made by the Paying Agent pursuant to the proviso at the end of the immediately preceding sentence or (B) any action taken to implement such determination and the procedures related thereto that is taken pursuant to any direction of or in reliance on any information provided by DTC, Cede & Co., any substitute securities depository or any Person in whose name the Series 2025 Bonds are reregistered.

Section 3.03. Form of the Series 2025 Bonds. The Series 2025 Bonds shall be in substantially the form set forth in Exhibit A hereto, with such changes thereto, not inconsistent herewith, as may be necessary or desirable and approved by the officials of the City executing the same (whose manual or facsimile signatures thereon shall constitute conclusive evidence of such approval). All covenants, statements, representations and agreements contained in the Series 2025 Bonds are hereby approved and adopted as the covenants, statements, representations and agreements of the City. Although attached as an exhibit for the convenience of the reader,

Exhibit A is an integral part of the Bond Ordinance and is incorporated herein as if set forth in full in the body of the Bond Ordinance. The Series 2025 Bonds shall recite that it is issued under the authority of the Enabling Laws. Such recital shall be conclusive evidence of the validity and the regularity of the issuance of the Series 2025 Bonds after their delivery for value.

Section 3.04. Execution, Authentication and Delivery of the Series 2025 Bonds.

(a) ***Execution***. The Series 2025 Bonds shall be executed in the name and on behalf of the City with the manual or facsimile signature of the Mayor, shall bear a manual or facsimile of the seal of the City and shall be attested by the manual or facsimile signature of the Clerk both of whom are hereby authorized and directed to prepare and execute the Series 2025 Bonds in accordance with the requirements hereof. Should any officer whose manual or facsimile signature appears on the Series 2025 Bonds cease to be such officer before delivery of the Series 2025 Bonds, such manual or facsimile signature shall nevertheless be valid and sufficient for all purposes.

(b) ***Authentication***. When the Series 2025 Bonds has been duly executed, the officers of the City are authorized to, and shall, deliver the Series 2025 Bonds to the Paying Agent for authentication. The Series 2025 Bonds shall not be secured by or entitled to the benefit of the Bond Ordinance, nor shall it be valid or obligatory for any purpose, unless the certificate of authentication of the Paying Agent has been manually executed by an authorized signatory of the Paying Agent. The executed certificate of authentication of the Paying Agent upon the Series 2025 Bonds shall be conclusive evidence, and the only competent evidence, that the Series 2025 Bonds has been properly authenticated hereunder.

(c) ***Delivery***. Upon the authentication of the Series 2025 Bonds, the payment to the City of the purchase price of the Series 2025 Bonds and the delivery of the approving opinion of Bond Counsel, the Paying Agent shall be directed to release the Series 2025 Bonds and deliver the same to the Initial Purchaser or as directed by the Initial Purchaser.

Section 3.05. Registration, Transfer and Exchange of the Series 2025 Bonds.

(a) ***Registration***. The Paying Agent shall maintain registration books in which the ownership, transfer and exchange of Series 2025 Bonds shall be recorded. The Person in whose name the Series 2025 Bonds shall be registered on such registration book shall be deemed to be the absolute owner thereof for all purposes.

(b) ***Transfer and Exchange***. The Series 2025 Bonds may be transferred or exchanged at the office of the Paying Agent for a like aggregate principal amount of Series 2025 Bonds in an authorized denomination and of the same type, maturity and interest rate, upon payment by the transferee of a transfer fee, any tax or governmental charge required to be paid with respect to such transfer or exchange and any cost of printing bonds in connection therewith. Upon surrender for transfer of the Series 2025 Bond, duly endorsed for transfer or accompanied by an assignment duly executed by the Registered Owner or his or her attorney duly authorized in writing, the City shall execute and the Paying Agent shall authenticate and deliver in the name of the transferee a new Series 2025 Bond.

Section 3.06. Replacement of Lost, Destroyed or Stolen Series 2025 Bonds. If any Series 2025 Bond shall become lost, apparently destroyed, stolen or wrongfully taken, it may be replaced in the form and tenor of the lost, destroyed, stolen or taken Series 2025 Bond and the City shall execute and the Paying Agent shall authenticate and deliver a replacement Series 2025 Bond upon the Registered Owner furnishing, to the satisfaction of the Paying Agent: (a) proof of ownership (which shall be shown by the registration books of the Paying Agent); (b) proof of loss, destruction or theft; and (c) an indemnity satisfactory to the City and the Paying Agent with respect to the Series 2025 Bonds lost, destroyed or taken; and (d) payment of the cost of preparing and executing the new Series 2025 Bond.

Section 3.07. Redemption of Series 2025 Bonds Prior to Maturity.

(a) ***Optional Redemption***. Certain of the Series 2025 Bonds may be subject to redemption prior to maturity at the option of the City, if at all, on such dates and at such prices as set forth in the Sale Certificate.

(b) ***Mandatory Sinking Fund Redemption***. All or any principal amount of the Series 2025 Bonds may be subject to mandatory sinking fund redemption by lot on the Principal Payment Date of the years and in the principal amounts specified in the Sale Certificate, at a redemption price equal to the principal amount to be redeemed (with no redemption premium), plus accrued interest to the redemption date.

(c) ***Redemption Procedures***. No notice shall be required for mandatory sinking fund redemption as provided in Section 3.07(b). Not less than 30 days prior to the date established for optional redemption of the Series 2025 Bonds, as provided in Section 3.07(a), the Paying Agent shall provide notice of optional redemption to the Registered Owners of any Series 2025 Bonds to be so optionally redeemed; the Paying Agent shall send such Registered Owners a copy of a notice of optional redemption in the name of the City by certified or registered first class, postage-prepaid mail.

Any notice of redemption by the Paying Agent may contain a statement that the redemption is conditioned upon the receipt by the Paying Agent of funds on or before the date fixed for redemption sufficient to the pay the redemption price of the Series 2025 Bonds so called for redemption, and that if funds are not available, such redemption shall be cancelled by written notice to the Registered Owners in the same manner as the original redemption notice was mailed.

ARTICLE IV

USE OF SERIES 2025 BOND PROCEEDS AND OTHER FUNDS

Section 4.01. Disposition of Series 2025 Bond Proceeds. The proceeds of the Series 2025 Bonds upon the receipt thereof, shall be deposited promptly by the Chief Financial Officer in an Insured Bank designated by the Council (except as otherwise provided hereafter) and shall be accounted for in the following manner and priority and are hereby pledged therefor:

(a) ***2025 Reserve Fund***. There initially will be credited to a separate account hereof created and to be known as the "City of Boulder, Colorado, Stormwater and Flood

Management Revenue Bonds, Series 2025, Reserve Fund," funded in an amount equal to the 2025 Minimum Bond Reserve as set forth in the Sale Certificate. Notwithstanding the foregoing provisions of this subsection or anything else to the contrary provided in the Bond Ordinance, each holder of any of the Series 2025 Bonds shall, by its purchase of such Series 2025 Bond or Series 2025 Bonds, be deemed to have agreed that at such time as (i) the Series 2015 Bonds are no longer Outstanding (through maturity, refunding, redemption, defeasance or otherwise) or (ii) in accordance with Section 11.01 of the Series 2015 Ordinance, the holders of more than 50% of the remaining Outstanding Series 2015 Bonds shall have consented to the following clauses (A) and (B) as proposed amendments to the Series 2015 Ordinance, then: (A) the requirement of establishing or maintaining the 2025 Reserve Fund for the Series 2025 Bonds and the amount of the 2025 Minimum Bond Reserve, if any, for the Series 2025 Bonds shall be at the election of the City, in its sole discretion, and (B) the requirement in Section 7.03(e) hereof to establish and maintain a reserve fund, if any, for additional Parity Bonds and the minimum amount of any such reserve fund, if established, shall be at the election of the City, in its sole discretion.

(b) ***Project Fund***. There is hereby established the "City of Boulder, Colorado Stormwater and Flood Management Revenue Bonds, Series 2025 Project Fund," which shall be maintained by the City in accordance with the provisions of this Bond Ordinance. The Project Fund shall be funded in the amount set forth in the Sale Certificate.

(c) ***Payment of Costs of Issuance***. Proceeds of the Series 2025 Bonds in amount set forth in the Sale Certificate shall be credited to a separate account hereby created and to be known as the "City of Boulder, Colorado, Stormwater and Flood Management Revenue Bonds, Series 2025 Issuance Expense Fund" and shall be used to pay costs of issuance in connection with the Series 2025 Bonds. Upon the determination of the City that all costs of issuance of the Series 2025 Bonds have been paid or are determinable, any balance remaining in this account shall be transferred to the 2025 Bond Fund.

Section 4.02. Use of Project Fund. The moneys in the Project Fund, except as herein otherwise expressly provided, shall be used and paid out solely for the purpose of paying costs of the Project including, without limitation, interest during construction of the Project, engineering, inspection, fiscal and legal expenses, costs of financial, professional and other estimates and advice, contingencies, any reimbursements due to the federal government, or any agency, instrumentality or corporation thereof, of any moneys theretofore expended for or in connection with the Project, and all such other incidental expenses as may be necessary or incidental to the financing and construction of the Project, or any part thereof, the issuance of the Series 2025 Bonds and the placing of the Project in operation.

Section 4.03. Application of Project Fund. Any interest earnings on moneys deposited to the Project Fund shall be retained in the Project Fund until the Project shall have been completed and then shall be transferred as provided in Section 4.05 below.

Section 4.04. Prevention of Bond Default. The Chief Financial Officer shall use any Series 2025 Bond proceeds credited to the Project Fund, without further order or warrant, to pay the interest on and the principal of the Series 2025 Bonds as the same become due whenever and

to the extent moneys in the 2025 Bond Fund or otherwise available therefor are insufficient for that purpose, unless such Series 2025 Bond proceeds shall be needed to defray obligations accrued and to accrue under any contracts then existing and appertaining to the Project. Any moneys so used shall be restored to the Project Fund, as permitted by Section 5.11 hereof, from the Net Income derived from the Fee thereafter received and not needed to meet the requirements provided in Sections 5.03 through 5.09 hereof.

Section 4.05. Completion of Project. When the Project shall have been completed in accordance with the relevant plans and specifications and all amounts due therefor, including all proper incidental expenses, shall have been paid, or for which full provision shall have been made, the Chief Financial Officer shall cause to be transferred to the 2025 Reserve Fund, all surplus moneys remaining in the Project Fund, if any, to the extent the amount on deposit in the 2025 Reserve Fund is less than the 2025 Minimum Bond Reserve, and any remaining surplus moneys shall be transferred to the 2025 Bond Fund, except for moneys to be retained to pay any unpaid accrued costs or contingent obligations. Nothing herein contained shall be construed as preventing the Chief Financial Officer from causing to be transferred from the Project Fund to the 2025 Reserve Fund, to the extent of any deficiency, at any time prior to the termination of the Project Fund any moneys which will not be necessary for the Project.

Section 4.06. Initial Purchaser Not Responsible. The validity of the Series 2025 Bonds shall not be dependent on, nor be affected by, the validity or regularity of any proceedings relating to the acquisition, construction, improvement and equipping of the Project, or any part thereof, or to the completion of the Project. The Initial Purchaser of the Series 2025 Bonds, any associate thereof, and any subsequent holder of any Series 2025 Bond shall in no manner be responsible for the application or disposal by the City or by any of its officers, agents and employees of the moneys derived from the sale of the Series 2025 Bonds or any other moneys herein designated.

Section 4.07. Lien on Bond Proceeds. Until the proceeds of the Series 2025 Bonds are applied as hereinabove provided and used to defray costs of the Project from time to time, the Series 2025 Bonds shall be secured by a lien on such proceeds which are pledged for the benefit of the holders of the Series 2025 Bonds from time to time as provided in Section 5.01.

Section 4.08. 2025 Reserve Policy. The Council hereby authorizes the Sale Delegate to execute and deliver any 2025 Reserve Policy Agreement. The Sale Delegate is also hereby authorized and directed to take all actions necessary to cause a 2025 Reserve Policy Provider to issue a 2025 Reserve Policy, including without limitation, payment of the premium(s) due in connection therewith and entering into any authorizing agreement. Further terms with respect to any 2025 Reserve Policy Agreement will be contained in the Sale Certificate.

ARTICLE V

ADMINISTRATION OF AND ACCOUNTING FOR PLEDGED REVENUES

Section 5.01. Pledge Securing the Series 2025 Bonds. The Gross Income and all moneys and securities paid or to be paid to or held or to be held in any account under Article V of this Bond Ordinance or under Section 4.01 hereof, less only the reasonable Operation and Maintenance Expenses of the Stormwater and Flood Management Utility System (the "Net Income") is hereby

pledged to secure the payment of the principal of and the interest on the Series 2025 Bonds; and this pledge of the Net Income derived from the Fee shall be valid and binding from and after the date of the first delivery of any Series 2025 Bonds, and the moneys, as received by the City and hereby pledged, shall immediately be subject to the lien of this pledge without any physical delivery thereof or further act, and the lien of this pledge and the obligation to perform the contractual provisions hereby made shall have priority over any or all other obligations and liabilities of the City, and the lien of this pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the City irrespective of whether such parties have notice thereof.

Section 5.02. Fee Deposits. So long as any of the Series 2025 Bonds shall be Outstanding, either as to principal or interest, or both, the Fee shall be set aside and credited to a separate account to be known as the "City of Boulder, Colorado, Stormwater and Flood Management Fee Fund" (the "Stormwater and Flood Management Fee Fund"). So long as any of the Series 2025 Bonds shall be Outstanding, either as to principal or interest, all Gross Income shall continue to be credited to the Stormwater and Flood Management Fee Fund.

Section 5.03. Administration of the Stormwater and Flood Management Fee Fund. So long as any of the Series 2025 Bonds hereby authorized shall be Outstanding, either as to principal or interest, or both, as provided herein in Sections 5.03 through 5.08 hereof, the following payments shall be made from the Stormwater and Flood Management Fee Fund: First, as a first charge thereon, there shall be withdrawn from the Stormwater and Flood Management Fee Fund moneys sufficient to pay Operation and Maintenance Expenses of the City's Stormwater and Flood Management Utility System as they become due and payable, and thereupon they shall be promptly paid.

Section 5.04. 2015 Bond Fund Payments. Second, and concurrently with the payments required by Section 5.05 hereof, from any moneys remaining in the Stormwater and Flood Management Fee Fund after the application of moneys as provided in Section 5.03 hereof, there shall be credited to the 2015 Bond Fund the following amounts:

(a) ***Interest Payments***. Monthly, commencing on the first day of the month immediately succeeding the delivery of the Series 2015 Bonds, an amount in equal monthly installments necessary, together with any other moneys from time to time available therefor from whatever source, to pay the next maturing installment of interest on the Series 2015 Bonds then Outstanding shall be transferred to the 2015 Bond Fund.

(b) ***Principal Payments***. Monthly, commencing on the month immediately succeeding the delivery of the Series 2015 Bonds, an amount in equal monthly installments necessary, together with any other money from time to time available therefor from whatever source, to pay the next maturing installment of principal on the Series 2015 Bonds then Outstanding.

Section 5.05. 2025 Bond Fund Payments. Third, and concurrently with the payments required by Section 5.04 hereof, from any moneys remaining in the Stormwater and Flood Management Fee Fund after the application of moneys as provided in Section 5.03 hereof, there

shall be credited to the "City of Boulder, Colorado, Stormwater and Flood Management Revenue Bonds, Series 2025 Bond Fund" (the "2025 Bond Fund") hereby created the following amounts:

(a) ***Interest Payments***. Monthly, commencing on the first day of the month immediately succeeding the delivery of any of the Series 2025 Bonds, an amount in equal monthly installments necessary, together with any other moneys from time to time available therefor from whatever source, including without limitation the moneys, if any, provided in Section 4.01 hereof, to pay the next maturing installment of interest on the Series 2025 Bonds then Outstanding shall be transferred to the 2025 Bond Fund.

(b) ***Principal Payments***. Monthly, commencing on the month immediately succeeding the delivery of any Series 2025 Bonds, an amount in equal monthly installments necessary, together with any other money from time to time available therefor from whatever source, to pay the next maturing installment of principal on the Series 2025 Bonds then Outstanding.

Section 5.06. 2015 Reserve Fund Payments. Fourth, and concurrently with the payments required by Section 5.07 hereof, from any moneys remaining in the Stormwater and Flood Management Fee Fund after the deposits required by Sections 5.03, 5.04 and 5.05 hereof, except as provided in Section 5.08 hereof, there shall be credited to the 2015 Reserve Fund any moneys necessary to make up any deficiency in the 2015 Reserve Fund, to the extent moneys on deposit in the 2015 Reserve Fund are less than the 2015 Minimum Bond Reserve. No payment need be made into the 2015 Reserve Fund so long as the moneys therein are at least equal to the 2015 Minimum Bond Reserve. The moneys in the 2015 Reserve Fund shall be maintained as a continuing reserve to be used, except as hereinafter provided in Section 5.08 hereof, only to prevent deficiencies in the payment of the principal of and the interest on the Series 2015 Bonds resulting from the failure to deposit into the 2015 Bond Fund sufficient funds to pay said principal and interest as the same accrue. Any moneys at any time in the 2015 Reserve Fund in excess of the 2015 Minimum Bond Reserve, including investment earnings derived from amounts on deposit in the 2015 Reserve Fund, may be withdrawn therefrom and transferred to the 2015 Bond Fund.

Section 5.07. 2025 Reserve Fund Payments. Fifth, and concurrently with the payments required by Section 5.06 hereof, from any moneys remaining in the Stormwater and Flood Management Fee Fund after the deposits required by Sections 5.03, 5.04 and 5.05 hereof, except as provided in Section 5.08 hereof, there shall be credited to the 2025 Reserve Fund created pursuant to Section 4.01(a) hereof any moneys necessary to make up any deficiency in the 2025 Reserve Fund, to the extent moneys on deposit in the 2025 Reserve Fund are less than the 2025 Minimum Bond Reserve. No payment need be made into the 2025 Reserve Fund so long as the moneys therein are at least equal to the 2025 Minimum Bond Reserve. The moneys in the 2025 Reserve Fund shall be maintained as a continuing reserve to be used, except as hereinafter provided in Section 5.08 hereof, only to prevent deficiencies in the payment of the principal of and the interest on the Series 2025 Bonds resulting from the failure to deposit into the 2025 Bond Fund sufficient funds to pay said principal and interest as the same accrue.

Section 5.08. Termination of Deposits. No payment need be made into the 2025 Reserve Fund if the amount in the 2025 Reserve Fund totals a sum at least equal to the entire amount of the Outstanding Series 2025 Bonds, both as to principal and interest to their respective maturities, or

to any prior redemption date on which the City shall have exercised or shall have obligated itself to exercise its option to redeem prior to their respective maturities the Series 2025 Bonds then Outstanding and thereafter maturing, and both accrued and not accrued, in which case moneys in said account in an amount, except for any interest or other gain to accrue from any investment of moneys in Permitted Investments from time to time of any such deposit to the time or respective times the proceeds of any such investment shall be needed for such payment, at least equal to such principal and interest requirements, shall be used together with any such gain from investments solely to pay such as the same become due; and any moneys in excess thereof in said account and any other moneys derived from the Fee may be used in any lawful manner determined by the Council.

Section 5.09. Payment of Additional Bonds. Sixth, but either concurrently with, in the case of additional Parity Bonds, or subsequent to, in the case of additional Subordinate Bonds, the payments required by Section 5.04 through 5.07 hereof, as provided in Sections 7.03 through 7.13 hereof, any moneys remaining in the Stormwater and Flood Management Fee Fund, after making the payments hereinabove provided, may be used by the City for the payment of interest on and the principal of additional bonds hereafter authorized to be issued and payable from the Net Income derived from the Fee, including reasonable reserves therefor, as the same accrue; provided, however, that the lien of such additional bonds on the Net Income derived from the Fee and the pledge thereof for the payment of such additional bonds shall be on a parity with, in the case of additional Parity Bonds, or subordinate to in the case of additional Subordinate Bonds, the lien and pledge of the bonds herein authorized, as hereinafter provided.

Section 5.10. Fee Pledge. Anything herein to the contrary notwithstanding, if moneys in the Stormwater and Flood Management Fee Fund are at any time insufficient to pay the amounts required to be paid therefrom, after permitted transfers from the 2025 Reserve Fund, then moneys in either such fund shall be used to pay all items payable therefrom pursuant to this Article V.

Section 5.11. Use of Remaining Revenues. After making the payments hereinabove required to be made by Sections 5.03 through 5.09 hereof, any remaining Net Income derived from the Fee in the Stormwater and Flood Management Fee Fund shall be used for any one or any combination of the following purposes in any order:

(a) ***Purchase of Obligations***. For the purchase in the open market of the Series 2025 Bonds or any other Outstanding bonds or other obligations incurred for any such purpose or purposes and payable from the Fee, at the best price obtainable, not, however, in excess of the call price therefor then applicable, or if none be then applicable, not in excess of a reasonable price therefore.

(b) ***Prior Redemption***. For the prior redemption of the Series 2025 Bonds or any other outstanding bonds or other obligations payable from the Fee, in accordance with the provisions of the Series 2025 Bonds or other obligations and any ordinance authorizing their issuance, including but not necessarily limited to this Bond Ordinance, but not in excess of a price at which such Series 2025 Bonds or other obligations can be purchased in the open market.

(c) ***Improvement***. For the repair, enlargement, extension, betterment and improvement of the Stormwater and Flood Management Utility System.

(d) ***Operation & Maintenance Expenses***. For defraying any Operation and Maintenance Expenses for which provision has not otherwise been made of the Stormwater and Flood Management Utility System.

(e) ***Lawful Purposes***. For any other lawful purpose of the City.

Section 5.12. 2025 Rebate Fund.

(a) There is hereby created and established by the City a separate special fund to be designated the "City of Boulder, Colorado, Stormwater and Flood Management Revenue Bonds, Series 2025 Rebate Fund" (the "2025 Rebate Fund"), which shall be expended in accordance with the provisions hereof and the Tax Letter of Instructions. The City shall make deposits and disbursements from the 2025 Rebate Fund in accordance with the Tax Letter of Instructions, shall invest the 2025 Rebate Fund only in legal investments for funds of the City and pursuant to said Tax Letter of Instructions, and shall deposit income from said investments immediately upon receipt thereof in the 2025 Rebate Fund, all as set forth in the Tax Letter of Instructions. The City shall make the calculations, deposits, disbursements and investments as may be required by the immediately preceding sentence, or, to the extent it deems necessary in order to ensure the tax-exempt status of interest on the Series 2025 Bonds, shall employ at its expense a person or firm with recognized expertise in the area of rebate calculation, to make such calculations. The Tax Letter of Instructions may be superseded or amended by a new Tax Letter of Instructions drafted by, and accompanied by an opinion of Bond Counsel addressed to the City to the effect that the use of said new Tax Letter of Instructions will not cause the interest on the Series 2025 Bonds to become includible in gross income for purposes of federal income taxation.

(b) The City shall make the rebate deposit described in the Tax Letter of Instructions. Records of the determinations required by this Section 5.12 and the Tax Letter of Instructions shall be retained by the City until four years after the final retirement of the Series 2025 Bonds.

(c) Not later than 30 days after the end of the fifth bond year (i.e., the year ended April 29, 2030) and every five years thereafter, the City shall pay to the United States of America 90% of the amount required to be on deposit in the 2025 Rebate Fund as of such payment date. Not later than 60 days after the final retirement of the Series 2025 Bonds, the City shall pay to the United States of America 100% of the balance remaining in the 2025 Rebate Fund. Each payment required to be paid to the United States of America pursuant to this Section 5.12 shall be filed with the Internal Revenue Service Center, Ogden, Utah 84201. Each payment shall be accompanied by a copy of the Internal Revenue Form 8038-G originally filed with respect to the Series 2025 Bonds, and a statement summarizing the determination of the amount to be paid to the United States of America.

ARTICLE VI

GENERAL ADMINISTRATION

Section 6.01. Administration of Accounts. The special accounts designated in Articles IV and V hereof shall be administered as provided in this Article VI.

Section 6.02. Places and Times of Deposits. Each of the special accounts hereinabove designated in Article IV and Article V hereof shall be separately accounted for in the records of the City, which special accounts shall be in one bank account or more in an Insured Bank or Insured Banks as determined and designated by the Council (except as otherwise expressly stated herein). Each such account shall be continuously secured to the fullest extent required or permitted by the laws of the State for the securing of public funds and shall be irrevocable and not withdrawable by anyone for any purpose other than the respective designated purposes. Each periodic payment shall be credited to the proper account not later than the date therefor herein designated, except that when any such date shall be a Sunday or a legal holiday, then such payment shall be made on or before the next preceding secular day. Notwithstanding any other provision herein to the contrary, moneys shall be deposited with the Paying Agent prior to each interest payment date herein designated sufficient to pay the interest, and principal and any prior redemption premiums then becoming due on the Series 2025 Bonds.

Section 6.03. Investment of Moneys. Any moneys in any account designated in Articles IV and V hereof, and not needed for immediate use, may be invested or reinvested by the Chief Financial Officer in securities or obligations which are lawful investments for such funds of the City and which constitute Permitted Investments. The Permitted Investments so purchased as an investment or reinvestment of moneys in any such account shall be deemed at all times to be part of the account, and (unless otherwise expressly provided herein) any interest accruing thereon and any other gain realized therefrom shall be credited to the account, and any loss resulting from such investment shall be charged to the account; provided, however, that any yield from investments of moneys in the 2025 Reserve Fund in excess of the 2025 Minimum Bond Reserve may be credited to the Stormwater and Flood Management Fee Fund. In computing the amount in any such account for any purpose hereunder, except as herein otherwise expressly provided, such obligation shall be valued at the lower of the cost or market value thereof, exclusive of any accrued interest or any other gain. The expenses of purchase, safekeeping, sale and all other expenses incident to any investment or reinvestment of moneys pursuant to this Section 6.03 shall be accounted for as Operation and Maintenance Expenses. The Chief Financial Officer shall present for redemption or sale on the prevailing market at the best price obtainable any Permitted Investments so purchased as an investment of moneys in the account whenever it shall be necessary so to do to provide moneys to meet any withdrawal, payment or transfer from such account. The Chief Financial Officer shall not be liable or responsible for any loss resulting from any such investment made in accordance with this Bond Ordinance.

Section 6.04. Character of Funds. The moneys in any account herein authorized shall consist either of lawful money of the United States of America or Permitted Investments, or both such money and such securities. Moneys deposited in a demand or time deposit account in or evidenced by a certificate of deposit of an Insured Bank pursuant to Section 6.02 hereof,

appropriately secured according to the laws of the State, shall be deemed lawful money of the United States of America.

Section 6.05. Accelerated Payments. Nothing contained in Article V hereof shall be construed to prevent the accumulation in any account herein designated of any monetary requirements at a faster rate than the rate or minimum rate, as the case may be, provided in Article V; provided, however, that no payment shall be so accelerated if such acceleration shall cause the Council to default in the payment of any obligation of the City appertaining to the Stormwater and Flood Management Utility System. Nothing herein contained shall be construed to require in any fiscal year the accumulation in any account for the payment of the principal of, the interest on, and any prior redemption premiums due in connection with any series of bonds payable from Net Income and herein or hereafter authorized, in excess of any principal, the interest, and any prior redemption premiums, but excluding any reserves required to be accumulated and maintained therefor.

Section 6.06. Payment of Series 2025 Bond Requirements. The moneys credited to any account designated in Article V hereof for the payment of the principal of, the interest on, and any prior redemption premiums due in connection with any series of bonds or other securities herein or hereafter authorized shall be used, without requisition, voucher or other direction or further authority than is contained herein, to pay promptly the principal of, the interest on, and any prior redemption premiums due in connection with the bonds payable therefrom as the same become due, as herein provided, except to the extent any other moneys are available therefor, including without limitation moneys accounted for in the 2025 Bond Fund.

Section 6.07. Payment of Redemption Premiums. Nothing herein contained shall be construed as not requiring the accumulation in any account designated in Article V hereof for the payment of any series of bonds payable from Net Income derived from the Fee of amounts sufficient to pay not only the principal thereof and interest thereon but also any prior redemption premiums due in connection therewith, as the same become due, whenever the City shall have exercised or shall have obligated itself to exercise a prior redemption option appertaining thereto, except to the extent provision is otherwise made therefor, if any prior redemption premium be due in connection therewith.

ARTICLE VII

SECURITIES LIENS AND ADDITIONAL BONDS

Section 7.01. First Lien Bonds. The Series 2025 Bonds authorized herein, subject to the payment of all necessary and reasonable Operation and Maintenance Expenses of the Stormwater and Flood Management Utility System, constitute an irrevocable and first lien (but not necessarily an exclusive first lien) upon the resulting Net Income derived from the Fee on a parity with the lien thereon of the Outstanding Series 2015 Bonds.

Section 7.02. Equality of Series 2025 Bonds. The Series 2025 Bonds authorized to be issued hereunder and from time to time Outstanding are equitably and ratably secured by a lien on the Net Income derived from the Fee and shall not be entitled to any priority one over the other in the application of the Fee regardless of the time or times of the issuance of the Series 2025 Bonds,

it being the intention of the Council that there shall be no priority among the Series 2025 Bonds regardless of the fact that they may be actually issued and delivered at different times.

Section 7.03. Issuance of Parity Bonds. Nothing in this Bond Ordinance contained shall be construed in such a manner as to prevent the issuance by the City of additional bonds payable from any Net Income of the Fee and constituting a lien thereupon on a parity with, but not prior nor superior to, the lien of the Series 2025 Bonds, nor to prevent the issuance of bonds refunding all or a part of the Series 2025 Bonds; provided, however, that before any such additional Parity Bonds are authorized or actually issued (excluding any parity refunding bonds other than any bonds refunding Subordinate Bonds as permitted in Section 7.10 hereof):

(a) ***Absence of Default***. The City shall not have defaulted in making any payments required by Article V hereof.

(b) ***Fee Test***. The annual Gross Income for the fiscal year immediately preceding the date of the issuance of such additional Parity Bonds shall have been sufficient to pay the annual Operation and Maintenance Expenses of the Stormwater and Flood Management Utility System for said fiscal year, and, in addition, sufficient to pay an amount representing 125% of the combined average annual principal and interest requirements of the Outstanding Parity Bonds of the City payable from and constituting a lien upon Net Income from the Fee and the additional Parity Bonds proposed to be issued, except as hereinafter otherwise expressly provided; provided that in calculating the Gross Income during the test period, the City may add an amount by which the City reasonably estimates the Gross Income would have been increased during the test period from any increase in rates, fees, and charges for services furnished by or the use of the Stormwater and Flood Management Utility System during or since said test period, the effect of which is to estimate a sum which would have been realized had the increase been in effect during the entire test period.

(c) ***Reduction of Annual Requirements***. The respective annual principal and interest requirements (including as a principal requirement the amount of any prior redemption premiums due on any prior redemption date as of which any outstanding bonds have been called or have been ordered to be called for prior redemption) shall be reduced to the extent such requirements are scheduled to be paid each of the respective fiscal years with moneys held in trust or in escrow for that purpose by any Insured Bank located within or without the State and exercising trust powers, including the known minimum yield from any investment in Permitted Investments.

(d) ***Consideration of Additional Expenses***. In determining whether or not additional Parity Bonds may be issued as aforesaid, consideration shall be given to any probable increase (but not reduction) in Operation and Maintenance Expenses of the Stormwater and Flood Management Utility System, that will result from the expenditure of the funds proposed to be derived from the issuance and sale of the additional bonds.

(e) ***Reserve Fund***. Subject at all times to the provisions of Section 4.01(a) hereof, there shall be established a reserve fund in an amount equal to at least the lesser of 125% of the average annual debt service on such additional Parity Bonds or 10% of the

principal amount of such additional Parity Bonds at the time such Parity Bonds are issued. Each holder of any of the Series 2025 Bonds shall, by its purchase of such Series 2025 Bond or Series 2025 Bonds, be deemed to have agreed that at such time as the conditions in Section 4.01(a) hereof are satisfied, the requirement of establishing or maintaining a reserve fund for any additional Parity Bonds and the minimum amount of such reserve fund, if any, shall be at the election of the City, in its sole discretion.

Section 7.04. Certification of Gross Income. A written certification by the Chief Financial Officer, City Manager or an Independent Accountant that said annual Gross Income is sufficient to pay said amounts, as provided in Section 7.03(b) hereof, shall be conclusively presumed to be accurate in determining the right of the City to authorize, issue, sell and deliver additional bonds on a parity with the Series 2025 Bonds.

Section 7.05. Subordinate Bonds Permitted. Nothing herein contained shall be construed so as to prevent the City from issuing additional bonds, including refunding bonds, payable from the Net Income derived from the Fee and having a lien thereon subordinate, inferior and junior to the lien of the Series 2025 Bonds authorized to be issued by this Bond Ordinance.

Section 7.06. Superior Bonds Prohibited. Nothing herein contained shall be construed so as to permit the City to issue additional bonds payable from the Fee and having a lien thereon prior and superior to the Series 2025 Bonds.

Section 7.07. Payment Dates of Additional Bonds. Any additional parity or subordinate bonds (including any refunding bonds) issued in compliance with the terms hereof shall bear interest payable semiannually on the first days of June and December in each year, except that the first interest payment date may be for interest accruing for any period not in excess in the aggregate of one year; and such additional bonds shall mature on the first day of December in the years designated by the Council during the term of the additional bonds.

Section 7.08. Refunding Bonds. The provisions of Sections 7.03 and 7.04 hereof are subject to the exceptions provided in Sections 7.09 through 7.12 hereof for the issuance of refunding bonds.

Section 7.09. Issuance of Refunding Bonds. If at any time after the Series 2025 Bonds, or any part thereof, shall have been issued and remain Outstanding, the Council shall find it desirable to refund any Outstanding Series 2025 Bonds payable from and constituting a lien upon Net Income derived from the Fee, said Series 2025 Bonds or any part thereof, may be refunded.

Section 7.10. Issuance of Parity Refunding Bonds. No refunding bonds payable from Net Income derived from the Fee shall be issued on a parity with the Series 2025 Bonds herein authorized unless:

(a) ***Parity Lien***. The lien on the Fee of the Outstanding bonds so refunded is on a parity with the lien thereon of the Series 2025 Bonds herein authorized.

(b) ***Tests***. (i) The refunding bonds are issued in compliance with Section 7.03 hereof or (ii) the City shall not have defaulted in making any payments required by Article V hereof and the maximum annual principal of and interest due on the proposed

refunding bonds is not greater than the maximum annual principal of and interest due on the Outstanding Bonds that will be refunded.

Section 7.11. Partial Refundings. The refunding bonds so issued shall enjoy complete equality of lien with the portion of any bonds of the same issue which is not refunded, if any there be; and the Registered Owner or Registered Owners of such refunding bonds shall be subrogated to all of the rights and privileges enjoyed by the Registered Owner or Registered Owners of the unrefunded bonds of the same issue partially refunded by the refunding bonds.

Section 7.12. Limitations Upon Refundings. Any refunding bonds payable from Net Income of the Fee shall be issued with such details as the Council may provide, subject to the provisions of Section 7.08 hereof, and subject to the inclusion of any such rights and privileges designated in Section 7.11 hereof, but without any impairment of any contractual obligation imposed upon the City by any proceedings authorizing the issuance of any unrefunded portion of such Outstanding bonds of any one or more issues (including but not necessarily limited to the Series 2025 Bonds herein authorized).

Section 7.13. Supplemental Bond Ordinance. Additional bonds payable from Net Income shall be issued only after authorization thereof by a supplemental ordinance of the Council stating the purpose or purposes of the issuance of such additional bonds, directing the application of the proceeds thereof to such purpose or purposes, directing the execution thereof, and fixing and determining the date, principal amount, maturities, designation and numbers thereof, the maximum rate or the rate or rates of interest to be borne thereby, any prior redemption privileges of the City with respect thereto and other provisions thereof in accordance with this Bond Ordinance.

All additional bonds shall bear such date, shall bear such numbers and series designation, letters or symbols prefixed to their numbers distinguishing them from each other security, shall be payable at such place or places, may be subject to redemption prior to maturity on such terms and conditions, and shall bear interest at such rate or at such different or varying rates per annum, as may be fixed by ordinance of the Council.

ARTICLE VIII

MISCELLANEOUS PROTECTIVE COVENANTS

Section 8.01. General. The City hereby particularly covenants and agrees with the Registered Owners of the Series 2025 Bonds and makes provisions which shall be a part of its contract with such holders to the effect and with the purpose set forth in the following provisions and sections of this Article VIII hereof.

Section 8.02. Performance of Duties. The City, acting by and through the Council or otherwise, will faithfully and punctually perform or cause to be performed all duties with respect to the Fee and the Stormwater and Flood Management Utility System required by the Constitution and laws of the State and the various ordinances and Charter of the City, including but not limited to the making and collection of reasonable and sufficient rates and charges for services rendered or furnished by or the use of the Stormwater and Flood Management Utility System, as herein

provided, and the proper segregation of the Fee and its application to the respective accounts or funds provided from time to time therefor.

Section 8.03. Further Assurances. At any and all times the City shall, so far as it may be authorized by law, pass, make, do, execute, acknowledge and deliver all and every such further ordinances, acts, deeds, conveyances, assignments, transfers, other documents, and assurances as may be necessary or desirable for the better assuring, conveying, granting, assigning and confirming all and singular the rights, the Fee, and other funds and accounts hereby pledged or assigned, or intended so to be, or which the City may hereafter become bound to pledge or to assign, or as may be reasonable and required to carry out the purposes of this Bond Ordinance and to comply with the Charter. The City, acting by and through the Council, or otherwise, shall at all times, to the extent permitted by law, defend, preserve and protect the pledge of the Net Income of the Fee and other funds and accounts pledged hereunder and all the rights of every holder of any Series 2025 Bond hereunder against all claims and demands of all persons whomsoever.

Section 8.04. Conditions Precedent. Upon the date of issuance of any Series 2025 Bonds, all conditions, acts and things required by the Constitution or statutes of the State or this Bond Ordinance to exist, to have happened, and to have been performed precedent to or in the issuance of the Series 2025 Bonds shall exist, have happened, and have been performed; and the Series 2025 Bonds, together with all other obligations of the City, shall be within every debt and other limitation prescribed by the State Constitution, statutes, or Charter of the City.

Section 8.05. Efficient Operation and Maintenance. The City shall at all times operate the Stormwater and Flood Management Utility System properly and in a sound and economical manner such that the City shall be able to perform the duties provided in Sections 8.02 and 8.16 hereof.

Section 8.06. Prejudicial Action Prohibited. No contract will be entered into nor any other action taken by the City which the rights of any Registered Owner of any Series 2025 Bond might be impaired or diminished.

Section 8.07. Protection of Security. The City, the officers, agents and employees of the City, and the Council shall not take any action in such manner or to such extent as might prejudice the security for the payment of the Series 2025 Bonds and the interest thereon according to the terms thereof.

Section 8.08. Accumulation of Interest Claims. In order to prevent any claims for interest after maturity, the City will not directly or indirectly extend or assent to the extension of the time for the payment of any claim for interest on any of the Series 2025 Bonds; and the City will not directly or indirectly be a party to or approve any arrangements for any such extension or for the purpose of keeping alive any such claims. In case the time for the payment of any interest shall be extended, such installment or installments of interest after such extension or arrangement shall not be entitled in case of default hereunder to the benefit or the security of this Bond Ordinance, except upon the prior payment in full of the principal of all Series 2025 Bonds then Outstanding and of all matured interest on such Series 2025 Bonds the payment of which has not been extended.

Section 8.09. Prompt Payment of Series 2025 Bonds. The City will promptly pay the principal of and the interest on every Series 2025 Bond issued hereunder and secured hereby at the place, on the dates, and in the manner specified herein and in the Series 2025 Bonds according to the true intent and meaning hereof.

Section 8.10. Use of 2025 Reserve Fund. The 2025 Reserve Fund shall be used solely and only and the moneys credited therein are hereby pledged for the purpose of paying the interest on and the principal of the Series 2025 Bonds, except for those moneys in the 2025 Reserve Fund as are in excess of the interest on and the principal of the Series 2025 Bonds, accrued and not accrued, to their respective maturities (subject to the provisions of Section 9.01 hereof), and except for those moneys in the respective accounts of the 2025 Reserve Fund in excess of the 2025 Minimum Bond Reserve, as hereinabove provided.

Section 8.11. Additional Bonds. Subject to Section 4.01(a) hereof, the City shall not hereafter issue any bonds payable from the Net Income derived from the Fee and having a lien on a parity with the Series 2025 Bonds herein authorized so long as any Series 2025 Bonds herein authorized are Outstanding, unless such additional bonds (other than bonds issued pursuant to Sections 7.08 through 7.11 hereof and refunding bonds on a parity with the Series 2025 Bonds) on a parity with the bonds herein authorized are issued in such manner as provided in Sections 7.03, 7.10 and 7.11 hereof. Any other bonds hereafter authorized to be issued and payable from the Net Income derived from the Fee shall not hereafter be issued, unless such additional bonds are also issued in conformance with the provisions of Articles V and VIII hereof.

Section 8.12. Corporate Existence. The City will maintain its corporate identity and existence so long as any of the Series 2025 Bonds herein authorized remain Outstanding, unless another body corporate and politic by operation of law succeeds to the duties, privileges, powers, liabilities, immunities and rights of the City and is obligated by law to operate and maintain the Stormwater and Flood Management Utility System as herein provided without adversely affecting to any substantial degree the privileges and rights of any Registered Owner of any Outstanding Series 2025 Bond at any time.

Section 8.13. Reserved.

Section 8.14. Budgets. The Council and officials of the City shall annually and at such other times as may be provided by law prepare and adopt a budget appertaining to the Stormwater and Flood Management Utility System.

Section 8.15. Reasonable Charges. While the Series 2025 Bonds or any of them remain Outstanding and unpaid, the Fee rendered by the City and to its inhabitants and to all other consumers within or without the boundaries of the City shall be reasonable and just, taking into account and consideration the costs and value of the Stormwater and Flood Management Utility System, the Operation and Maintenance Expenses thereof, the proper and necessary allowances for the depreciation thereof, and the amounts necessary for the retirement of all Series 2025 Bonds and other bonds and obligations payable from Net Income the accruing interest thereon, and reserves therefor.

Section 8.16. Adequacy and Applicability of Charges. There shall be charged against all customers of the City paying the Fee, such rates, fees and other charges as shall be adequate to meet the requirements of this and the preceding sections hereof. Such rates and amounts from the Fee shall be sufficient to produce Gross Income annually to pay the annual Operation and Maintenance Expenses and 125% of both the principal of and the interest on the Series 2025 Bonds and any other bonds payable annually from Gross Income (excluding the reserves therefor), all of which Gross Income, including any income received from the City, shall be subject to distribution to the payment of Operation and Maintenance Expenses of the Stormwater and Flood Management Utility System and to the payment of principal of and interest on all bonds payable from the Fee, including reasonable reserves therefor.

Section 8.17. Collection of Charges. The City shall cause the Fee to be collected as soon as reasonable, shall prescribe and enforce rules and regulations for the payment thereof and shall provide methods of collection and penalties, including but not limited to denial of municipal water service for nonpayment of such Fee to the end that net revenues of the Fee shall be adequate to meet the requirements hereof.

Section 8.18. Procedure for Collecting Charges. All bills for water, water flood system, electric current appertaining thereto, and sanitary sewer service or flood system furnished or served by or through the Stormwater and Flood Management Utility System shall be rendered to customers on a regularly established and orderly basis when needed. The fees, rates and other charges due shall be collected in a lawful manner, including without limitation discontinuance of service by the City.

Section 8.19. Records. So long as any of the Series 2025 Bonds remain Outstanding, proper books of record and account will be kept by the City, separate and apart from all other records and accounts, showing complete and correct entries of all transactions relating to the Stormwater and Flood Management Utility System. Such books shall include (but not necessarily be limited to) monthly records showing:

(a) ***Numbers***. The number of customers required to pay the Fee by classes.

(b) ***Receipts***. The revenues received from the Fee by classes of customers.

(c) ***Expenses***. A detailed statement of the expenses of the Stormwater and Flood Management Utility System.

All requisitions, requests, certificates, opinions and other documents received by any Person on behalf of the City in connection with the Stormwater and Flood Management Utility System under the provisions of this Bond Ordinance shall be retained in such Person's possession or in the City's official records.

Section 8.20. Rights Concerning Records and Stormwater and Flood Management Utility System. Any Registered Owner of any of the Series 2025 Bonds or any duly authorized agent or agents of such holder shall have the right at all reasonable times to inspect all records, accounts and data relating thereto, concerning the Stormwater and Flood Management Utility System or the Net Income from the Fee, or both, to make copies of such records, accounts and

data, and to inspect the Stormwater and Flood Management Utility System and all properties comprising the Stormwater and Flood Management Utility System.

Section 8.21. Audits Required. The City shall, following the close of each fiscal year, order an audit for the fiscal year of such books and accounts to be made forthwith by an Independent Accountant.

Section 8.22. Distribution of Audits and Reports. The City agrees to furnish by first-class mail, postage prepaid, forthwith, and in any event within 180 days from the end of each fiscal year, a copy of each of such audits and reports to the Registered Owner of any of the Series 2025 Bonds at the Registered Owner's request and without request to:

(a) ***Original Purchaser***. The Original Purchaser, or any known successor thereof.

(b) ***Paying Agent***. The Paying Agent, or any known successor thereof.

(c) ***Others***. Any other person designated in any ordinance or other proceedings appertaining to any Outstanding bonds payable from Net Income derived from the Fee other than the Series 2025 Bonds.

After each such audit and report has been prepared; and any such holder shall have the right to discuss with the Independent Accountant or with the person making the audit and report the contents thereof and to ask for such additional information as such holder may reasonably require.

Section 8.23. Additional Tax Covenants.

(a) The City covenants that it shall not use or permit the use of any proceeds of the Series 2025 Bonds or any other funds of the City from whatever source derived, directly or indirectly, to acquire any securities or obligations and shall not take or permit to be taken any other action or actions, which would cause any of the Series 2025 Bonds to be an "arbitrage bond" within the meaning of Section 148 of the Code, or would otherwise cause the interest on the Series 2025 Bonds to be includible in gross income for federal income tax purposes. The City covenants that it shall at all times do and perform all acts and things permitted by law and which are necessary in order to assure that interest paid by the City on the Series 2025 Bonds shall, for purposes of federal income taxation, not be includible in gross income under the Code or any other valid provision of law.

(b) In particular, but without limitation, the City further represents, warrants and covenants to comply with the following restrictions of the Code, unless it receives an opinion of Bond Counsel stating that such compliance is not necessary:

(i) Gross proceeds of the Series 2025 Bonds shall not be used in a manner which will cause the Series 2025 Bonds to be considered "private activity bonds" within the meaning of the Code.

(ii) The Series 2025 Bonds are not and shall not become directly or indirectly "federally guaranteed."

(iii) The City shall timely file Internal Revenue Form 8038-G which shall contain the information required to be filed pursuant to Section 149(e) of the Code.

(iv) The City shall comply with the Tax Certificate and the Tax Letter of Instructions delivered to it on the date of issue of the Series 2025 Bonds with respect to the application and investment of Series 2025 Bond proceeds subject to Section 5.10 hereof.

ARTICLE IX

DEFEASANCE, DELEGATION OF POWERS, STATUTE OF LIMITATIONS AND MISCELLANEOUS

Section 9.01. Defeasance. When all principal and interest due in connection with the Series 2025 Bonds have been duly paid, the pledge and lien and all obligations hereunder shall thereby be discharged and the Series 2025 Bonds shall no longer be deemed to be Outstanding within the meaning of this Bond Ordinance. There shall be deemed to be such due payment when the City has placed in escrow or in trust with a commercial bank located within or without the State and exercising trust powers on amount sufficient (including the known minimum yield from Federal Securities in which such amount wholly or in part may be initially invested) to meet all requirements of principal, interest and any prior redemption premiums due as the same become due to the final maturities of the Series 2025 Bonds or upon any prior redemption date as of which the City shall have exercised or shall have obligated itself to exercise its prior redemption option by a call of the Series 2025 Bonds for payment then. The Federal Securities shall become due prior to the respective times on which the proceeds thereof shall be needed in accordance with a schedule established and agreed upon between the City and such bank at the time of the creation of the escrow or trust, or the Federal Securities shall be subject to redemption at the option of the Registered Owners thereof to assure such availability as so needed to meet such schedule.

Section 9.02. Delegated Powers. The Sale Delegate and any other officers of the City be, and they hereby are, authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Bond Ordinance including, without limitation, the execution of the Series 2025 Bonds, the tenure and identity of the officials of the Council and of the City, the delivery of the Series 2025 Bonds , the receipt of the bond purchase price and, if it be in accordance with fact, the absence of litigation, pending or threatened, affecting the validity thereof.

Section 9.03. Statute of Limitations. No action or suit based upon any Series 2025 Bond or other obligation of the City shall be commenced after it is barred by any statute of limitations appertaining thereto. Any trust or fiduciary relationship between the City and the Registered Owners of any Series 2025 Bond or other obligee regarding any such obligation shall be conclusively presumed to have been repudiated on the maturity date or other due date thereof unless the bond is presented for payment or demand for payment of any such obligation is otherwise made before the expiration of the applicable limitation period. Any moneys from whatever source derived remaining in any fund or account reserved, pledged or otherwise held for the payment of any such obligation, action or suit for the collection of which is barred shall revert to the Stormwater and Flood Management Fee Fund unless the Council shall otherwise provide by

bond ordinance of the City. Nothing herein contained shall be so construed as to prevent the payment of any such obligation after any action or suit for its collection has been barred if the Council deems it in the best interests of the public so to do and orders such payment to be made.

Section 9.04. Evidence of Bondholders. Any request, consent or other ordinance which this Bond Ordinance may require or may permit to be signed and to be executed by the Registered Owner of any Series 2025 Bonds may be in one or more ordinances of similar tenor and shall be signed or shall be executed by each such holder in person or by his attorney appointed in writing as shown on the registration books of the Paying Agent although the Paying Agent may nevertheless, in its discretion, require further or other proof as it deems advisable.

Section 9.05. Warranty Upon Issuance of Series 2025 Bonds. Any Series 2025 Bonds authorized as herein provided, when duly executed and delivered for the purpose provided for in this Bond Ordinance, shall constitute a warranty by and on behalf of the City for the benefit of each and every future holder of any of the Series 2025 Bonds that the Series 2025 Bonds have been issued for a valuable consideration in full conformity with law.

ARTICLE X

PRIVILEGES, RIGHTS AND REMEDIES

Section 10.01. Bondholder's Remedies. Each holder of any Series 2025 Bond issued hereunder shall be entitled to all of the privileges, rights and remedies permitted at law or in equity or by statute, except no real or personal property appertaining to the Stormwater and Flood Management Utility System or otherwise has been conveyed to secure the payment of the Series 2025 Bonds by deed of trust or mortgage to a trustee for the benefit and the security of the Registered Owner or Registered Owners from time to time of the Series 2025 Bonds, or by any other encumbrance or other pledge of property, subject to the provisions herein concerning the pledge of and the covenants and the other contractual provisions concerning the Net Income of the Stormwater and Flood Management Utility System.

Section 10.02. Right To Enforce Payment. Nothing in this Bond Ordinance article contained shall affect or impair the right of any Registered Owner of any Series 2025 Bond or Parity Bond issued hereunder to enforce the payment of the principal of and the interest on such Series 2025 Bond or Parity Bond or the obligation of the City to pay the principal of and the interest on each Series 2025 Bond or Parity Bond issued hereunder to the Registered Owner thereof at the time and the place expressed in the Series 2025 Bond or Parity Bond.

Section 10.03. Events of Default. Each of the following events is hereby declared an "event of default," that is to say:

(a) ***Nonpayment of Principal and Premium***. Payment of the principal of any of the Series 2025 Bonds or any Parity Bonds or any prior redemption premium due in connection therewith or both shall not be made by the City when the same shall become due and payable either at maturity or by proceedings for prior redemption or otherwise.

(b) ***Nonpayment of Interest***. Payment of any installment of interest on the Series 2025 Bonds or any Parity Bonds shall not be made by the City when the same becomes due and payable.

(c) ***Incapable To Perform***. The City shall for any reason be rendered incapable of fulfilling its obligations hereunder.

(d) ***Nonperformance of Duties***. The City shall have failed to carry out and to perform (or in good faith to begin the performance of) all acts and things lawfully required to be carried out or to be performed by it under any contract relating to Gross Income or to the Stormwater and Flood Management Utility System or otherwise and such failure shall continue for 60 days after receipt of notice from either the Original Purchaser of the Series 2025 Bonds or from the Registered Owners of 10% in principal amount of the Series 2025 Bonds authorized by this Bond Ordinance and then outstanding.

(e) ***Failure To Reconstruct***. The City shall discontinue or shall unreasonably delay or shall fail to carry out with reasonable dispatch the reconstruction of any part of the Stormwater and Flood Management Utility System which shall be destroyed or damaged and shall not be promptly repaired or replaced unless such failure to repair due to obsolescence.

(f) ***Appointment of Receiver***. An order or decree shall be entered by a court of competent jurisdiction with the consent or acquiescence of the City appointing a receiver or receivers for the Stormwater and Flood Management Utility System or for the Net Income of the Stormwater and Flood Management Utility System or both or if an order or decree having been entered without the consent or acquiescence of the City shall not be vacated or discharged or stayed on appeal within 60 days after entry.

(g) ***Default of Any Provision***. The City shall make default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Series 2025 Bonds or any Parity Bonds or in this Bond Ordinance on its part to be performed, and such default shall continue for 60 days after written notice specifying such default and requiring the same to be remedied shall have been given to the City by either the Registered Owners of 10% in principal amount of the Series 2025 Bonds and Parity Bonds then Outstanding.

Section 10.04. Remedies for Defaults. Upon the happening and continuance of any of the events of default as provided in Section 10.03 hereof, then and in every case, the Registered Owner or Registered Owners of not less than 10% in principal amount of the Series 2025 Bonds and Parity Bonds then outstanding, may proceed against the City to protect and to enforce the rights of any Registered Owner of the Series 2025 Bonds and Parity Bonds under this Bond Ordinance by mandamus or by other suit, action or special proceedings in equity or at appointment of a receiver or for the specific performance of any covenant or agreement contained herein or in an award of execution of any power herein granted for the enforcement of any proper legal or equitable remedy as such Registered Owner or Registered Owners may deem most effectual to protect and to enforce the rights aforesaid, or thereby to enjoin any act or thing which may be unlawful or in violation of any right of any Registered Owner or Registered Owners of any bond,

or to require the City to act as if it were the trustee of an express trust or any combination of such remedies. All such proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Registered Owners of the Series 2025 Bonds and Parity Bonds then outstanding.

Section 10.05. Rights and Privileges Cumulative. The failure of any Registered Owner of any Outstanding Series 2025 Bond to proceed in any manner herein provided shall not relieve the City, its Council or any of its officers, agents or employees of any liability for failure to perform or carry out any duty, obligation or other commitment. Each right or privilege of any such holder (or trustee thereof) is in addition and is cumulative to any other right or privilege, and the exercise of any right or privilege by or on behalf of any Registered Owner shall not be deemed a waiver of any other right or privilege thereof.

Section 10.06. Duties Upon Defaults. Upon the happening of any of the events of default as provided in Section 10.03 hereof, the City, in addition, will do and perform all proper acts on behalf of and for the Registered Owner of the Series 2025 Bonds to protect and to preserve the security created for the payment of their bonds and to insure the payment of the principal of and the interest On the Series 2025 Bonds promptly as the same become due. During any period of default, so long as any of the Series 2025 Bonds herein authorized either as to principal or as to interest are outstanding, all Net Income shall be paid in the 2025 Bond Fund or, in the event of bonds issued and Outstanding during said period of time on a parity with the Series 2025 Bonds herein authorized, shall be paid into bond funds for all "parity" bonds on an equitable and prorated basis and used for the purposes therein provided. In the event the City fails or refuses to proceed as in this Section provided, the Registered Owner or Registered Owners of not less than 10% in principal amount of the Series 2025 Bonds then outstanding, after demand in writing, may proceed to protect and to enforce the rights of the Registered Owner of the Series 2025 Bonds as hereinabove provided; and to that end any such Registered Owners of outstanding Series 2025 Bonds shall be subrogated to all rights of the City under any agreement, lease or other contract involving the Stormwater and Flood Management Utility System entered into prior to the effective date of this Bond Ordinance or thereafter while any of the Series 2025 Bonds herein authorized are Outstanding.

Section 10.07. Duties in Bankruptcy Proceedings. In the event any user of the Stormwater and Flood Management Utility System proceeds under any laws of the United States relating to bankruptcy, including any action under any law providing for corporate reorganization, it shall be the duty of the City, and it appropriate officers are hereby authorized and directed, to take all necessary steps for the benefit of the Registered Owner of the Series 2025 Bonds in said proceedings, including the filing of any claims for unpaid fees, rates and other charges or otherwise arising from the breach of any of the covenants, terms or conditions of any contract involving the Stormwater and Flood Management Utility System.

ARTICLE XI

AMENDMENT OF ORDINANCE

Section 11.01. Limitations Upon Amendments. This Bond Ordinance may be amended or supplemented by ordinances adopted by the Council in accordance with the laws of the State

without receipt by the City of any additional consideration but with the written consent of the Registered Owners of more than 50% of the Series 2025 Bonds authorized by this Bond Ordinance and Outstanding at the time of the adoption of such amendatory or supplemental ordinance (not including in any case any Series 2025 Bonds which may then be held or owned for the account of the City but including such refunding any of the Series 2025 Bonds herein authorized if such refunding securities are not owned by the City).

Notwithstanding the foregoing, this Bond Ordinance may be amended or supplemented by ordinances adopted by the Council in accordance with the constitution and laws of the State without receipt by the City of any additional consideration and without receipt by the City of any additional consideration and without notice to and consent from the Registered Owners of any of the Series 2025 Bonds, for the purposes of (a) curing any ambiguity or defective or inconsistent provision contained in this Bond Ordinance as the City may deem necessary and desirable and not inconsistent with the provisions of this Bond Ordinance and which shall not adversely affect the interests of the owners of the Series 2025 Bonds or any other Parity Bonds or (b) subjecting additional properties to the lien of this Bond Ordinance.

The foregoing paragraphs are subject to the condition, however, that no such ordinance shall have the effect of permitting:

(a) ***Changing Payment***. A change in the maturity or in the terms of redemption of the principal of any Outstanding bond or any installment of interest thereon.

(b) ***Reducing Return***. A reduction in the principal amount of any bond, the rate of interest thereon or any prior redemption premium payable in connection, therewith without the consent of the Registered Owner of the bond.

(c) ***Prior Lien***. The creation of a lien upon or a pledge of revenues ranking prior to the lien or to the pledge created by this Bond Ordinance.

(d) ***Modifying Any Bond***. A reduction of the principal amount, percentages or otherwise affecting the description of Series 2025 Bonds the consent of the Registered Owners of which is required for any such modification or amendment.

(e) ***Priorities Between Bonds***. The establishment of priorities as between Series 2025 Bonds issued and Outstanding under the provisions of this Bond Ordinance.

(f) ***Partial Modification***. The modification of or otherwise affecting the rights of the Registered Owners of less than all of the Series 2025 Bonds then Outstanding.

Section 11.02. Notice of Amendment. Whenever the Council shall propose to amend or modify this Bond Ordinance under the provisions of this article, unless otherwise not required it shall cause notice of the proposed amendment to be provided in the same manner specified in Section 3.05 hereof. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy of the proposed amendatory ordinance is on file in the office of the Chief Financial Officer for public inspection.

Section 11.03. Time for Amendment. Whenever at any time within one year from the date of the publication or mailing of said notice there shall be filed in the office of the Chief Financial Officer an ordinance or ordinances executed by the Registered Owners of more than 50% in aggregate amount of the Series 2025 Bonds then Outstanding as in this article defined, which ordinance or ordinances shall refer to the proposed amendatory ordinance described in said notice and shall specifically consent to and approve the adoption thereof, thereupon, but not otherwise (except as provided in Section 11.01 whereby consent is not required), the Council may adopt such amendatory ordinance and such ordinance shall become effective.

Section 11.04. Binding Consent to Amendment. If the Registered Owners of more than 50% in aggregate principal amount of the Series 2025 Bonds Outstanding as in this article defined at the time of the adoption of such amendatory ordinance, or in the predecessors in title of such holders, shall have consented to and approved the adoption thereof as herein provided, no holder of any bond, whether or not such holder shall have consented to or shall have revoked any interest to object to the adoption of such amendatory ordinance or to object to any of the terms or provisions therein contained or to the operation thereof or to enjoin or restrain the City from taking any action pursuant to the provisions thereof.

Section 11.05. Time Consent Binding. Any consent given by the Registered Owner of a bond pursuant to the provisions of this article shall be irrevocable for a period of six months from the date of the publication or mailing of the notice above provided for and shall be conclusive and binding upon all future holders of the same bond during said period. Such consent may be revoked at any time after six months from the date of the publication or mailing of such notice, by the Registered Owner who gave such consent or by a successor in title by filing notice of such revocation with the Chief Financial Officer, but such revocation shall not be effective if the Registered Owners of 50% in aggregate principal amount of the Series 2025 Bonds Outstanding as in this article defined have, prior to the attempted revocation, consented to and approved the amendatory ordinance referred to in such revocation.

Section 11.06. Unanimous Consent. Notwithstanding anything contained in the foregoing provisions of this article, the terms and the provisions of this Bond Ordinance or of any ordinance amendatory thereof or supplemental thereto and the rights and the obligations of the City and of the Registered Owners of the Series 2025 Bonds thereunder may be modified or amended in any respect upon the adoption by the City and upon the filing with the Chief Financial Officer of an ordinance to that effect and with the consent of the Registered Owners of all the then Outstanding Series 2025 Bonds, such consent to be given as provided in Section 9.04 hereof; and no notice to holders of bonds shall be required as provided in Section 11.02 hereof, nor shall the time of consent be limited except as may be provided in such consent.

Section 11.07. Exclusion of City's Series 2025 Bonds. Series 2025 Bonds owned or held by or for the account of the City shall not be deemed Outstanding and shall be excluded for the purpose of consent or of other action or of any calculation of Outstanding Series 2025 Bonds provided for in this article, and the City shall not be entitled with respect to such Series 2025 Bonds to give any consent or to take any other action provided for in this article. At the time of any consent or of other action taken under this article, the City shall furnish the Chief Financial Officer and the Paying Agent a certificate of the Treasurer upon which the City may rely describing all Series 2025 Bonds so to be excluded.

ARTICLE XII

AUTHORIZING THE NOTICE OF BOND SALE AND THE RECEIPT OF COMPETITIVE BIDS

Section 12.01. Authorization of Competitive Bids. The Series 2025 Bonds shall be, and the same hereby are ordered to be, sold based upon competitive bids to be received by the City on or about April 15, 2025; provided, however, that the Council hereby delegates to the Chief Financial Officer the authority to change the date or time of the public sale of the Series 2025 Bonds to a later date or time (but not later than 180 days after final passage of this Bond Ordinance), if the Chief Financial Officer determines that such delay of the sale will maximize the likelihood of marketing the Series 2025 Bonds when market conditions are relatively favorable, or that it is necessary or desirable to provide additional time to finalize information or documentation relating to the Series 2025 Bonds. If there is such a change in sale date or time, appropriate changes may be made to the sale notice forms set forth herein (or such changes may be posted electronically as described in such sale notice forms); and corresponding changes may also be made in dated dates of the Series 2025 Bonds and other documents and instruments referred to herein. Bids for the Series 2025 Bonds must be submitted electronically by means of the i-Deal Parity electronic bidding system ("PARITY"), in the manner described below. No other method of submitting bids will be accepted.

Section 12.02. Notice of Bond Sale. The Chief Financial Officer and the City Clerk are hereby authorized and directed to provide for the publication of the Notice of Bond Sale in *The Daily Camera* at such times as they deem adequate to give reasonable notice of the proposed sale, but no less than once after the date hereof and at least five (5) days prior to the sale date hereinabove designated. The form of the Notice of Bond Sale is hereby approved in substantially the form attached hereto as Exhibit B, with such changes therein, including but not limited to changes in dates, principal amounts and maturities and completions thereto, as the Chief Financial Officer shall direct and shall deem to be in the best interest and to the best advantage of the City, the execution of such notice by the Mayor and the Chief Financial Officer to indicate conclusively the approval of any and all such changes. The Notice of Bond Sale may be published in a condensed format sufficient to give reasonable notice of the proposed sale of the Series 2025 Bonds, as such format may be approved by the Chief Financial Officer after consultation with the Municipal Advisor.

ARTICLE XIII

AMENDMENT OF SERIES 2015 ORDINANCE

In accordance with Section 11.01 of the Series 2015 Ordinance allowing amendments for the purpose of curing any ambiguity or defective or inconsistent provision as the City may deem necessary and desirable, the term "Flood Control System" in the Series 2015 Ordinance shall be amended to read "Stormwater and Flood Management Utility System" in all instances therein.

ARTICLE XIV

MISCELLANEOUS

Section 14.01. Findings and Determinations. Having been fully informed of and having considered all the pertinent facts and circumstances, the Council does hereby find, determine, and declare:

(a) the issuance of the Series 2025 Bonds and all procedures undertaken incident thereto are in full compliance and conformity with all applicable requirements, provisions and limitations prescribed by the Charter and the Constitution and laws of the State, including the Enabling Laws, and all conditions and limitations of the Charter, and other applicable law relating to the issuance of the Series 2025 Bonds has been satisfied;

(b) it is to the best advantage of the City and its residents that the Series 2025 Bonds be authorized, sold, issued and delivered to the Initial Purchaser pursuant to a competitive sale to be held and conducted in accordance with the Enabling Laws and the provisions hereof at the time, in the manner and for the purposes provided in this Bond Ordinance; and

(c) in accordance with Section 11-57-204, C.R.S., the City hereby elects to apply all of the provisions of the Supplemental Public Securities Act to the issuance of the Series 2025 Bonds.

Section 14.02. Approval of Official Statement, Paying Agent Agreement, Tax Certificate and Miscellaneous Documents. All action heretofore taken by any of the City's officials and the efforts of the City directed toward the issuance and sale of the Series 2025 Bonds, including use of a Preliminary Official Statement which is hereby approved, are hereby ratified, approved and confirmed. The Council hereby authorizes the use of a final Official Statement in substantially the form of the Preliminary Official Statement for use in connection with the sale of the Series 2025 Bonds, and the Mayor is hereby authorized and directed to execute the final Official Statement, with such changes therein as he shall deem necessary or appropriate. The Mayor, the Mayor Pro Tem, the Chief Financial Officer and the City Clerk, or his or her designee and all other officers of the City and their designees are hereby authorized and directed to execute all other documents and certificates necessary or desirable to effectuate the issuance of the Series 2025 Bonds and the transactions contemplated thereby, including without limitation, the Paying Agent Agreement and the Tax Certificate.

Section 14.03. Undertaking To Provide Ongoing Disclosure. The City agrees to enter into the Continuing Disclosure Undertaking, dated the date of issuance of the Series 2025 Bonds for the benefit of the Registered Owners of the Series 2025 Bonds required by Section (b)(5) of Securities and Exchange Commission Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (17 CFR Part 240, § 240.15c2-12).

Section 14.04. Ratification. All action heretofore taken (not inconsistent with the provisions of this Bond Ordinance or the Enabling Laws) by the Council, the officers of the City,

the Municipal Advisor and otherwise by the City directed toward the sale and delivery of the Series 2025 Bonds for that purpose, shall be, and the same hereby is, ratified, approved and confirmed.

Section 14.05. Bond Ordinance Irrepealable. After the Series 2025 Bonds are issued, this Bond Ordinance shall constitute an irrevocable contract between the holders and the City, and shall be and shall remain irrepealable until the Series 2025 Bonds and the interest thereon shall be fully paid, canceled and discharged, as herein provided.

Section 14.06. Severability. If any section, subsection, paragraph, clause or other provision of this Bond Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph, clause or other provision shall not affect any of the remaining provisions of this Bond Ordinance.

Section 14.07. Repealer. All bylaws, orders, and other instruments, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any bylaw, order, or other instrument, or part thereof, heretofore repealed.

Section 14.08. Recordation and Publication. This Bond Ordinance, immediately on its final passage, shall be recorded in the City's Ordinance Record kept for that purpose, authenticated by the Mayor and the Clerk, and shall be published by title only in *The Daily Camera*, a daily newspaper printed, published and of general circulation in the City, in accordance with the provisions of the Charter of the City.

Section 14.09. Emergency Declaration; Effective Date. Due to fluctuations in municipal bond prices and interest rates, and due to currently favorable interest rates, and due to the need to finally act upon and accept the bid of the highest responsible bidder (in accordance with the Charter) for the Series 2025 Bonds in an expeditious manner, it is hereby declared that, in the opinion of the Council, an emergency exists, this Bond Ordinance is necessary for the preservation of the public peace, health and property of the City and its inhabitants and shall be in full force and effect upon its passage.

INTRODUCED, READ ON FIRST READING, PASSED AND ADOPTED AS AN EMERGENCY MEASURE BY TWO-THIRDS COUNCIL MEMBERS PRESENT AND ORDERED PUBLISHED BY TITLE ONLY THIS 6TH DAY OF MARCH 2025.

Aaron Brockett,
Mayor

Attest:

By _____

City Clerk

EXHIBIT A

FORM OF 2025 BOND

UNITED STATES OF AMERICA
STATE OF COLORADO

No. R-[____] $_____

CITY OF BOULDER, COLORADO
(ACTING THROUGH ITS STORMWATER AND FLOOD MANAGEMENT UTILITY ENTERPRISE)
STORMWATER AND FLOOD MANAGEMENT REVENUE BONDS
SERIES 2025

Interest Rate	Maturity Date	Dated Date	CUSIP
[_____]%	December 1, [____]	[April 30, 2025]	

REGISTERED HOLDER: Cede & Co.
Tax Identification Number: 13-2555119

PRINCIPAL SUM: _____ DOLLARS

CITY OF BOULDER, COLORADO, in the State of Colorado, a duly organized and validly existing municipality and political subdivision of the State of Colorado (the "City"), for value received, hereby promises to pay to the order of the registered owner above or registered assigns, solely out of the special accounts hereinafter designated but not otherwise, on the maturity date stated above, the principal amount specified above. In like manner the City promises to pay interest on the unpaid principal amount (computed on the basis of a 360-day year of twelve 30-day months) from the Interest Payment Date next preceding the date of registration and authentication of this Series 2025 Bond (as hereinafter defined), except that interest paid on the first Interest Payment Date shall be computed from the Dated Date set forth above, at the Interest Rate per annum specified above, payable semiannually on June 1 and December 1 each year, commencing on [June 1, 2025], until the outstanding principal amount is paid. Capitalized terms used but not defined in this Series 2025 Bond shall have the meaning assigned to them in Ordinance No. [_____] of the City, finally adopted on March 6, 2025, authorizing the issuance of the Series 2025 Bonds (the "Bond Ordinance"). This Series 2025 Bond is one of an issue of bonds of the City designated "Stormwater and Flood Management Revenue Bonds, Series 2025" issued in the principal amount of $[_____] (the "Series 2025 Bonds"). The Series 2025 Bonds are being issued by the City for the purpose of providing funds to (a) construct, improve, acquire and equip certain stormwater and flood mitigation improvements in the City, including the acquisition of ownership and easement interests in real property necessary for such improvements, and any other capital improvements with respect to the Stormwater and Flood Management Utility System; (b) fund or purchase a reserve fund surety bond for the 2025 Reserve Fund; and (c) pay the cost of issuing the Series 2025 Bonds.

Interest and principal payments shall be paid by check or draft of U.S. Bank Trust Company National Association, Denver, Colorado (as the "Paying Agent") mailed on or before each Interest Payment Date and Principal Payment Date to the registered owner hereof whose name shall appear on the registration book maintained by the Paying Agent as of the Record Date.

The Series 2025 Bonds are subject to mandatory sinking fund redemption by lot on the Principal Payment Date of the years and in the principal amounts specified below, at a redemption price equal to the principal amount to be redeemed (with no redemption premium), plus accrued interest to the redemption date.

[Insert sinking fund redemption schedule.]

The Series 2025 Bonds maturing on and after December 1, [_____] shall be callable for redemption at the option of the City, in whole or in part, and if in part in such order of maturities as the City shall determine and by lot within a maturity on December 1, [_____], and on any date thereafter, at a redemption price equal to the par amount thereof plus accrued interest to the redemption date.

This Series 2025 Bond is transferable by the registered owner hereof in person or by the registered owner's attorney duly authorized, in writing, at the principal office of the Paying Agent in Denver, Colorado, but only in the manner, subject to the limitations and upon payment of the charges provided in the Ordinance, and upon surrender and cancellation of this bond. Upon such transfer, a new registered Series 2025 Bond or Series 2025 Bonds of the same maturity and interest rate and of authorized denomination or denominations ($5,000 and integral multiples thereof) for the same aggregate principal amount will be issued to the transferee in exchange therefor. The City and the Paying Agent may deem and treat the registered owner hereof as the absolute owner hereof (whether or not this bond shall be overdue) for the purpose of receiving payment of, or on account of, principal hereof and premium, and neither the City nor the Paying Agent shall be affected by any notice to the contrary.

The Series 2025 Bonds are issued pursuant to, under the authority of, and in full conformity with, the Enabling Laws, including, in particular, the Charter, the Enterprise Ordinance, as codified in Sections 11-5-1 to 11-5-20 of the City Code, the Bond Ordinance and Part 2 of Article 57 of Title 11, Colorado Revised Statutes, as amended. The Series 2025 Bonds do not constitute a debt or an indebtedness of the City within the meaning of any constitutional, charter or statutory provision or limitation, shall not be considered or held to be general obligations of the City, and are payable and collectible solely out of the Net Income (defined herein) derived from the City's Stormwater and Flood Management Fee collected pursuant to Section 4-20-45, B.R.C. 1981 (hereinafter the "Fee"), the Net Income derived from the Fee and certain interest earnings with respect thereto are so pledged; and the Registered Owner hereof may not look to any general or other fund for the payment of the principal of and the interest on this bond except the special funds pledged therefor. Payment of the Series 2025 Bonds and the interest thereon shall be made solely from and as security for such payment there are irrevocably and exclusively pledged, pursuant to the Bond Ordinance, two special accounts identified as the "City of Boulder, Colorado, Stormwater and Flood Management Revenue Bonds, Series 2025 Bond Fund" (the "2025 Bond Fund") and as the "City of Boulder, Colorado, Stormwater and Flood Management Revenue Bonds, Series 2025 Reserve Fund" (the "2025 Reserve Fund"). The City covenants to pay into the 2025 Bond Fund

from the Fee and interest earnings hereinbefore described, less only for all necessary and reasonable current expenses of the operation and maintenance of the Stormwater and Flood Management Utility System (as defined in the Bond Ordinance), sums sufficient to pay when due the principal of and the interest on the Series 2025 Bonds. The Series 2025 Bonds are also secured by certain proceeds of the Series 2025 Bonds and other amounts deposited into the 2025 Reserve Fund.

Subject to expressed conditions in the Bond Ordinance, the Series 2025 Bonds are equitably and ratably secured by a lien on the Net Income derived from the Fee and interest earnings, and the Series 2025 Bonds constitute an irrevocable and first lien (but not necessarily an exclusive first lien) upon said Net Income on a parity with the lien thereon of the outstanding City of Boulder, Colorado, Stormwater and Flood Management Revenue Bonds, Series 2015 (the "Series 2015 Bonds"). Subject to expressed conditions in the Bond Ordinance, bonds and other obligations, in addition to the Series 2025 Bonds and the Series 2015 Bonds, may be issued and made payable from the Net Income derived from the Fee and interest earnings on a subordinate and junior basis. Subject to additional expressed conditions in the Bond Ordinance, additional bonds and other obligations may be issued and made payable from the Net Income derived from the Fee on a parity with the Series 2025 Bonds and the Series 2015 Bonds.

The City covenants and agrees with the Registered Owner of this bond and with each and every person who may become the Registered Owner hereof that it will keep and will perform all of the covenants of the Bond Ordinance.

Reference is made to the Bond Ordinance and any and all modifications and amendments thereof, and to the Charter of the City, as from time to time amended, for an additional description of the nature and extent of the security for the Series 2025 Bonds, the accounts, funds or income pledged, the nature and extent and manner of enforcement of the pledge, the rights and remedies of the holders of the Series 2025 Bonds with respect thereto, the terms and conditions upon which the Series 2025 Bonds are issued, and a statement of rights, duties, immunities and obligations of the City, and other rights and remedies of the holders of the Series 2025 Bonds.

To the extent and in the respects permitted by the Bond Ordinance, the provisions of the Bond Ordinance or any instrument amendatory thereof or supplemental thereto may be modified or amended by action of the City taken in the manner and subject to the conditions and exceptions prescribed in the Bond Ordinance. The pledge of the Net Income derived from the Fee and other obligations of the City under the Bond Ordinance may be discharged, at or prior to the respective maturities or redemption of the Series 2025 Bonds, upon the making of provision for the payment thereof on the terms and conditions set forth in the Bond Ordinance.

It is hereby certified that all conditions, acts and things required by the constitution and laws of the State of Colorado, and the Charter and ordinances of the City, to exist, to happen and to be performed, precedent to and in the issuance of the Series 2025 Bonds, exist, have happened and have been performed, and that the Series 2025 Bonds do not exceed any limitations prescribed by the Bond Ordinance and the Enabling Laws.

The Series 2025 Bonds are issued pursuant to the Supplemental Public Securities Act, constituting Part 2, Article 57, Title 11 of Colorado Revised States, as amended. This recital shall

conclusively impart full compliance with all of the provisions of the Bond Ordinance and shall be conclusive evidence of the validity and regularity of the issuance of the Series 2025 Bonds after their delivery for value and that the Series 2025 Bonds issued hereunder are incontestable for any cause whatsoever after their delivery for value.

This Series 2025 Bonds shall not be entitled to any benefit under the Bond Ordinance, or become valid or obligatory for any purpose, until the Paying Agent shall have signed the certificate of authentication hereon.

IN WITNESS WHEREOF, City of Boulder, Colorado, has caused this Series 2025 Bond to be signed in the name and on behalf of the City with the manual or facsimile signature of the Mayor, to be sealed with the seal of the City or a facsimile thereof and to be attested by the manual or facsimile signature of the City Clerk.

[MANUAL OR FACSIMILE SEAL] CITY OF BOULDER, COLORADO

By (Manual or Facsimile Signature)
Mayor

ATTEST:

By (Manual or Facsimile Signature)
City Clerk

CERTIFICATE OF AUTHENTICATION

This is the one of the Series 2025 Bonds described in the within-mentioned Bond Ordinance.

Date of Authentication: _____

U.S. BANK TRUST COMPANY NATIONAL ASSOCIATION, as Paying Agent

By _____
Authorized Representative

CERTIFICATE OF TRANSFER

FOR VALUE RECEIVED, _____, the undersigned, hereby sells, assigns and transfers unto _____ (Tax Identification or Social Security No. _____) the within Series 2025 Bonds and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

_____

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Series 2025 Bonds in every particular, without alteration or enlargement or any change whatever.

TRANSFER FEE MAY BE REQUIRED

EXHIBIT B

NOTICE OF BOND SALE

$[_____]*
CITY OF BOULDER, COLORADO
(Acting through its Stormwater and Flood Management Utility Enterprise)
STORMWATER AND FLOOD MANAGEMENT REVENUE BONDS
SERIES 2025

PUBLIC NOTICE IS HEREBY GIVEN that electronic bids will be received for the purchase of the City of Boulder, Colorado (Acting through its Stormwater and Flood Management Utility Enterprise) Stormwater and Flood Management Revenue Bonds, Series 2025 (the "Series 2025 Bonds"), more particularly described below. As more fully described in the Preliminary Official Statement, dated on or about [April 4, 2025] (the "Preliminary Official Statement"), the City of Boulder, Colorado (the "City"), is causing the Series 2025 Bonds to be offered and issued pursuant to the Bond Ordinance of the City adopted on March 6, 2025 (the "Ordinance"). Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Ordinance.

Bids for the purchase of the Series 2025 Bonds must be submitted by means of the i-Deal Parity electronic bidding system ("PARITY"). No other method of submitting bids will be accepted. The use of PARITY shall be at the bidder's risk and expense, and none of the City, its Municipal Advisor or Bond Counsel shall have any liability with respect thereto. Electronic bids via PARITY must be submitted in accordance with PARITY's Rules of Participation, as well as the provisions of this Notice of Bond Sale. To the extent that provisions of this Notice of Bond Sale conflict with PARITY's Rules of Participation or any instruction or directions set forth by PARITY, the provisions of this Notice of Bond Sale shall control. The date and time for submitting bids will be as follows:

Bid Date:	**[April 15, 2025]**
Bid Time:	**Between 11:00 a.m. and 11:30 a.m. Eastern Time (Between 9:00 a.m. and 9:30 a.m. Mountain Time)**
Submit Bid to:	**PARITY electronic bidding system as set forth in "TERMS OF SALE—Submission of Bids"**
Delivery Date:	**[April 30, 2025]**

Information relating to the City and the Series 2025 Bonds may be obtained from the City's Municipal Advisor, Hilltop Securities, Attention: Jason Simmons, 8055 E. Tufts Avenue, Suite 350, Denver, Colorado 80237, (telephone: (303) 771-0217; e-mail: Jason.Simmons@hilltopsecurities.com).

*Preliminary; subject to adjustment as set forth herein.

Neither the City, the Paying Agent, the Municipal Advisor, nor Bond Counsel shall be responsible for, and each bidder expressly assumes the risk of, any incomplete, inaccurate, or untimely bid submitted by Internet transmission by such bidder, including, without limitation, by reason of garbled transmissions, mechanical failure, engaged telephone or telecommunications lines, or any other cause arising from delivery by Internet transmission. Additionally, the PARITY time stamp will govern the receipt of all electronic bids. The official bid clock does not automatically refresh. Bidders must refresh the auction page periodically to monitor the progression of the bid clock and to ensure that their bid will be submitted prior to the termination of the bond sale. All bids will be deemed to incorporate the provisions of this Notice of Bond Sale.

This Notice of Bond Sale and the information set forth herein are not to be treated as a complete disclosure of all relevant information with respect to the Series 2025 Bonds. The information set forth herein is subject, in all respects, to a more complete description of the Series 2025 Bonds and the security therefor set forth in the Preliminary Official Statement.

BOND DETAILS

Terms. The City of Boulder, Colorado Stormwater and Flood Management Revenue Bonds, Series 2025 will be issued in the aggregate principal amount set forth in the caption of this Notice of Bond Sale, and will be dated the date of delivery. The proceeds of the Series 2025 Bonds are being used to (a) acquire, construct, improve and equip certain stormwater and flood mitigation improvements for the first phase of the South Boulder Creek flood mitigation project, including the acquisition of ownership and easement interests in real property necessary for such improvements, and any other capital improvements with respect to the Stormwater and Flood Management Utility System; (b) fund or purchase a reserve fund surety bond for the 2025 Reserve Fund; and (c) pay all necessary, incidental and appurtenant expenses in connection therewith, including the costs of issuance of the Series 2025 Bonds. Interest on the Series 2025 Bonds will be payable on each June 1 and December 1, commencing on [June 1, 2025]. The Series 2025 Bonds will mature on December 1 in each of the designated amounts and years as follows:

[Remainder of page intentionally left blank]

Maturity Schedule*

Maturity Date (December 1)	Principal Amount
2025	
2026	
2027	
2028	
2029	
2030	
2031	
2032	
2033	
2034	
2035	
2036	
2037	
2038	
2039	
2040	
2041	
2042	
2043	
2044	

*Preliminary; subject to adjustment as set forth in "TERMS OF SALE—Adjustment of Principal Amount and of Maturities After Determination of Best Bid" herein.

The Series 2025 Bonds will be issued in registered form, in denominations of $5,000 or integral multiples thereof. The Series 2025 Bonds will be issued in book-entry form utilizing the services of The Depository Trust Company, New York, New York ("DTC") as securities depository.

Adjustment of Aggregate Principal Amount and of Maturities After Determination of Best Bid. The aggregate principal amount and the principal amount of each maturity of the Series 2025 Bonds described above are subject to adjustment by the City, after the determination of the best bid. Changes to be made will be communicated to the successful bidder by the time of award of the Series 2025 Bonds to the successful bidder, and will not reduce or increase the aggregate principal amount of the Series 2025 Bonds by more than [15%] in total principal amount. The successful bidder may not withdraw its bid as a result of any changes made within these limits.

By submitting its bid, each bidder agrees to purchase the Series 2025 Bonds in such adjusted principal amounts and to modify the purchase price for the Series 2025 Bonds to reflect such adjusted principal amounts. The bidder further agrees that the interest rates for the various

maturities as designated by the bidder in its bid will apply to any adjusted principal amounts designated by the City for such maturities.

Amendment of Notice. The date and time of the sale may be changed at the discretion of the City, and the City also reserves the right to make other changes to the provisions of this Notice of Bond Sale prior to the date and time of the sale; any such changes may be posted through PARITY. Prospective bidders are advised to check for such PARITY postings prior to the stated sale time.

Interest Rates and Limitations. Interest from the date of delivery of the Series 2025 Bonds will be payable on [June 1, 2025], and semiannually thereafter on December 1 and June 1 in each year, as calculated based on a 360-day year of twelve 30-day months.

Only one interest rate shall be specified for any one maturity of the Series 2025 Bonds.

Each interest rate specified must be stated in a multiple of 1/8 or 1/20 of 1 percent per annum.

The maximum differential between the lowest and highest interest rates permitted for the issue is one percent (1.0%) (*i.e.,* the maximum rate of interest accruing on any Series 2025 Bond prior to its maturity may not exceed the lowest rate of interest accruing on any other Series 2025 Bond prior to its maturity by more than one percent (1.0%)).

A zero rate is not permitted. No supplemental or "B" interest shall be allowed.

Purchase Price. The purchase price bid shall not be less than 100% of the par amount of the Series 2025 Bonds, nor will any net discount or commission be allowed or paid on the sale of the Series 2025 Bonds.

Optional Redemption. The Series 2025 Bonds maturing on and after [December 1, 2035] are callable for redemption at the option of the City, in whole or in part in such order of maturities as the City shall determine and by lot within a maturity, on [December 1, 2034] and on any date thereafter, at a redemption price equal to the principal amount thereof plus accrued interest to the redemption date.

Term Bonds; Mandatory Sinking Fund Redemption. A bidder may request that any Series 2025 Bonds be aggregated to form one or more term bonds. Any such term bond will be subject to mandatory sinking fund redemption in the same amounts and on the same dates as the Series 2025 Bonds would have matured if they were not included in a term bond. Series 2025 Bonds redeemed pursuant to mandatory sinking fund redemption will be redeemed at a redemption price equal to 100% of the principal amount thereof, plus accrued interest to the redemption date, in the manner as otherwise provided in the Ordinance. Any election to designate Series 2025 Bonds as being included in a term bond must be made at the time the prospective bidder submits a bid for the Series 2025 Bonds via PARITY. See "TERMS OF SALE—Submission of Bids."

Security. The Series 2025 Bonds will be payable from, and will constitute a first and prior (but not exclusive) lien on the Net Income (hereinafter defined) derived from the Stormwater and Flood Management Fee billed to customers of the City's water and sewer systems pursuant to

Section 4 20 45, B.R.C. 1981, as amended (the "Fee") and moneys on deposit in the 2025 Bond Fund and the 2025 Reserve Fund established and continued by the Ordinance. Net Income means Gross Income, less Operation and Maintenance Expenses of the Stormwater and Flood Management Utility System as more fully described in the Ordinance and the Preliminary Official Statement with respect to the Series 2025 Bonds. Reference is made to the Preliminary Official Statement for a more complete description of the security for the Series 2025 Bonds.

Reserve Fund. The 2025 Reserve Fund is established by the Ordinance. Upon delivery of the Series 2025 Bonds, the City will utilize a reserve fund surety policy from [_____] to fund the 2025 Reserve Fund in an amount equal to the 2025 Minimum Bond Reserve. The 2025 Reserve Fund will be used to pay debt service on the Series 2025 Bonds to the extent that the Net Income derived from the Fee is insufficient therefor. Notwithstanding the foregoing, as further described in the Preliminary Official Statement, each holder of any of the Series 2025 Bonds shall, by its purchase of such Series 2025 Bond or Series 2025 Bonds, be deemed to have agreed that at such time as (i) the Series 2015 Bonds issued by the City prior to the issuance of the Series 2025 Bonds are no longer Outstanding (through maturity, refunding, redemption, defeasance or otherwise) or (ii) in accordance with Section 11.01 of the Series 2015 Ordinance, the holders of more than 50% of the remaining Outstanding Series 2015 Bonds shall have consented to the following clauses (A) and (B) as proposed amendments to the Series 2015 Ordinance, then: (A) the requirement of establishing or maintaining the Reserve Fund for the Series 2025 Bonds and the amount of the Minimum Bond Reserve, if any, for the Series 2025 Bonds shall be at the election of the City, in its sole discretion, and (B) the requirement in Section 7.03(e) of the Ordinance to establish and maintain a reserve fund, if any, for additional Parity Bonds and the minimum amount of any such reserve fund, if established, shall be at the election of the City, in its sole discretion.

Additional Bonds; Outstanding Parity Bonds. The Ordinance permits the issuance of additional bonds of the City, payable from a lien on the Net Income derived from the Fee on a parity with, or subordinate to, the lien thereof of the Series 2025 Bonds. As of the issuance of the Series 2025 Bonds, the following Series 2015 Bonds will be Outstanding in the aggregate principal amount of $13,415,000 and payable from the Net Income derived from the Fee on a parity with the Series 2025 Bonds.

Rating. S&P Global Ratings, a business unit of Standard & Poor's Financial Services LLC have assigned the Series 2025 Bonds a municipal bond rating of "[____]." See "RATING" in the Preliminary Official Statement.

Authorization. The Series 2025 Bonds are authorized to be issued by the Constitution of the State of Colorado, the Charter of the City, the laws of the State of Colorado, the Ordinance and the Supplemental Public Securities Act.

TERMS OF SALE

Submission of Bids. A prospective bidder must electronically submit a bid for the Series 2025 Bonds via PARITY. Bids may be submitted electronically via PARITY in accordance with this Notice of Bond Sale, until 9:30 a.m. Mountain Time, but no bid will be received after the time for receiving bids specified above. To the extent any instructions or directions set forth in PARITY

conflict with this Notice of Bond Sale, the terms of this Notice of Bond Sale shall control. For further information about PARITY, potential bidders may contact the City's Municipal Advisor, Hilltop Securities, Attention: Jason Simmons, 8055 E. Tufts Avenue, Suite 350, Denver, Colorado 80237 (telephone: (303) 771-0217; e-mail: Jason.Simmons@hilltopsecurities.com, or PARITY at 1359 Broadway, 2nd Floor, New York, New York 10018, Telephone (212) 404 8153; Fax (212) 849 5021.

Bidding Parameters. Bidders are required to submit unconditional bids specifying the rate of interest and premium, if any, at which the bidder will purchase all and not less than all of the Series 2025 Bonds.

Information Regarding Bids. Bidders may change and submit bids as many times as they wish during the bidding. During the bidding, no bidder will see any other bidder's bid, nor the status of their bid relative to other bids (i.e, whether their bid is the leading bid).

Bids Constitute an Irrevocable Offer. Each bid submitted through PARITY shall be deemed an irrevocable offer to purchase the Series 2025 Bonds on the terms provided in this Notice of Bond Sale and shall be binding upon the bidder.

Basis of Award. The Series 2025 Bonds will be sold to the bidder offering to purchase the Series 2025 Bonds at the lowest true interest cost ("TIC"). The actuarial yield on the Series 2025 Bonds using the TIC method will be computed at that yield which, if used to compute the present value of all payments of principal and interest on the Series 2025 Bonds as of the delivery date of the Series 2025 Bonds [(i.e., April 30, 2025)], produces an amount equal to the aggregate bid price. Such calculation will be made based upon a 360-day year composed of twelve 30-day months and a semi-annual interval for compounding.

The winning bid will be indicated on PARITY and the auction results, as posted on such website, will be subject to verification by the City and the Municipal Advisor. The City and the Municipal Advisor will verify the auction results immediately following the close of the bidding period and notice of confirmation by the City and the Municipal Advisor of the winning bidder will be made by a posting on PARITY under the "Results" link.

If two or more bids have the same TIC, the first bid submitted, as determined by reference to the time stamp displayed on PARITY, shall be deemed to be the leading bid.

Sale Reservations. The City reserves the right (a) to reject any and all bids for any Series 2025 Bonds, (b) to reoffer any Series 2025 Bonds for public or negotiated sale and (c) to waive any irregularity or informality in any bid.

Good Faith Deposit. A good faith deposit will not be required in connection with the submission of a bid for the Series 2025 Bonds. The winning bidder will be required to wire $[600,000] of the par amount of the Series 2025 Bonds to the City as bid security by 3:00 p.m. Mountain Time on [April 15, 2025]. The City will provide wire instructions to the winning bidder. The bid security will be retained by the City and: (a) will be applied, without allowance for interest, against the purchase price when the Series 2025 Bonds are delivered to and paid for by such winning bidder; (b) will be retained by the City as liquidated damages if the bidder defaults with

respect to the bid; or (c) will be returned to the bidder if the Series 2025 Bonds are not issued by the City for any reason which does not constitute a default by the bidder.

Manner and Time of Delivery. The Series 2025 Bonds will be delivered to DTC for the account of the winning bidder at the expense of the City on [April 30, 2025] or such later date as the City and the winning bidder may agree. The winning bidder will not be required to accept delivery of the Series 2025 Bonds if they are not tendered for delivery by the City on [April 30, 2025], or such later date as the City and the winning bidder may agree; provided that delivery of any Series 2025 Bonds is conditioned upon the receipt by the City of a certificate as to their issue price. See "—Establishment of Issue Price" below. Payment of the purchase price due at delivery must be made in Federal Reserve funds for immediate and unconditional credit to the City.

Establishment of Issue Price

(a) The winning bidder shall assist the City in establishing the issue price of the Series 2025 Bonds and shall execute and deliver to the City at closing an "issue price" or similar certificate setting forth the reasonably expected Initial Offering Price (as defined herein) to the Public (as defined herein) or the sales price or prices of the Series 2025 Bonds, together with the supporting pricing wires or equivalent communications, substantially in the form attached hereto as *APPENDIX A*, with such modifications as may be appropriate or necessary, in the reasonable judgment of the winning bidder, the City and Bond Counsel. All actions to be taken by the City under this Notice of Bond Sale to establish the issue price of the Series 2025 Bonds may be taken on behalf of the City by the Municipal Advisor. At the written request of the City, Bond Counsel or the Municipal Advisor (including via e-mail), any notice or report to be provided to the City under this Notice of Bond Sale shall be provided to, as applicable pursuant to such written request, the City, Bond Counsel, or the Municipal Advisor.

(b) The City intends that the provisions of Treasury Regulation Section 1.148-1(f)(3)(i) (defining "competitive sale" for purposes of establishing the issue price of the Series 2025 Bonds) will apply to the initial sale of the Series 2025 Bonds (the "Competitive Sale Requirements") because:

(1) the City shall disseminate this Notice of Bond Sale to potential Underwriters (as defined herein) in a manner that is reasonably designed to reach potential Underwriters;

(2) all bidders shall have an equal opportunity to bid;

(3) the City anticipates receiving bids from at least three bidders with established industry reputations for underwriting new issuances of municipal bonds; and

(4) the City anticipates awarding the sale of the Series 2025 Bonds to the bidder who submits a firm offer to purchase the Series 2025 Bonds at the lowest interest cost, as set forth in this Notice of Bond Sale.

The City shall take all reasonable steps that are appropriate so that the initial sale of the Series 2025 Bonds to the Public will satisfy the Competitive Sale Requirements. Any bid submitted

pursuant to this Notice of Bond Sale shall be considered a firm offer for the purchase of the Series 2025 Bonds, as specified in the bid.

(c) In the event that the Competitive Sale Requirements are not satisfied, the City shall so advise the winning bidder. The City may determine to treat (i) the first price at which 10% of a maturity of the Series 2025 Bonds (the "10% Test") is sold to the Public as the issue price of that maturity and/or (ii) the Initial Offering Price to the Public as of the Sale Date (as defined herein) of any maturity of the Series 2025 Bonds as the issue price of that maturity (the "Hold-the-Offering-Price Rule"), in each case applied on a maturity-by-maturity basis. The City intends to apply the Hold-the-Offering-Price Rule if the Competitive Sale Requirements are not satisfied but may, in its discretion, apply the 10% Test if necessary. The winning bidder shall advise the City if any maturity of the Series 2025 Bonds satisfies the 10% Test as of the date and time of the award of the Series 2025 Bonds. The City (or the Municipal Advisor) shall promptly advise the prospective winning bidder, at or before the time of award of the Series 2025 Bonds, which maturities of the Series 2025 Bonds shall be subject to the 10% Test or shall be subject to the Hold-the-Offering-Price Rule. **Bids will <u>not</u> be subject to cancellation in the event that the Competitive Sale Requirements are not satisfied. <u>Bidders should prepare their bids on the assumption that all of the maturities of the Series 2025 Bonds will be subject to the Hold-the-Offering-Price Rule in order to establish the issue price of the Series 2025 Bonds</u>.**

(d) By submitting a bid, the winning bidder shall (i) confirm that the Underwriter(s) have offered or will offer the Series 2025 Bonds to the Public on or before the date of award at the offering price or prices (the "Initial Offering Price"), or at the corresponding yield or yields, set forth in the bid submitted by the bidder and (ii) agree, on behalf of the Underwriter(s) participating in the purchase of the Series 2025 Bonds, that the Underwriter(s) will neither offer nor sell unsold Series 2025 Bonds of any maturity to which the Hold-the-Offering-Price Rule shall apply to any person at a price that is higher than the Initial Offering Price to the Public during the period starting on the Sale Date and ending on the earlier of the following:

(1) the close of the fifth (5th) business day after the Sale Date; or

(2) the date on which the Underwriter(s) have sold at least 10% of that maturity of the Series 2025 Bonds to the Public at a price that is no higher than the Initial Offering Price to the Public.

The winning bidder shall promptly advise the City or the Municipal Advisor when the Underwriter(s) have sold 10% of that maturity of the Series 2025 Bonds to the Public at a price that is no higher than the Initial Offering Price to the Public, if that occurs prior to the close of the fifth (5th) business day after the Sale Date.

(e) If the Competitive Sale Requirements are not satisfied, then until the 10% Test has been satisfied as to each maturity of the Series 2025 Bonds, the winning bidder agrees to promptly report to the City the prices at which the unsold Series 2025 Bonds of that maturity have been sold to the Public. That reporting obligation shall continue, whether or not the closing date has occurred, until the 10% Test has been satisfied as to the Series 2025 Bonds of that maturity or until all Series 2025 Bonds of that maturity have been sold.

(f) The City acknowledges that, in making the representation set forth above, the winning bidder will rely on (i) the agreement of each Underwriter to comply with the Hold-the-Offering-Price Rule, as set forth in any agreement among underwriters and the related pricing wires, (ii) in the event a selling group has been created in connection with the initial sale of the Series 2025 Bonds to the Public, the agreement of each dealer who is a member of the selling group to comply with the Hold-the-Offering-Price Rule, as set forth in a selling group agreement and the related pricing wires, and (iii) in the event that an Underwriter is a party to a retail distribution agreement that was employed in connection with the initial sale of the Series 2025 Bonds to the Public, the agreement of each broker-dealer that is a party to such agreement to comply with the Hold-the-Offering-Price Rule, as set forth in the retail distribution agreement and the related pricing wires. The City further acknowledges that each Underwriter shall be solely liable for its failure to comply with its agreement regarding the Hold-the-Offering-Price Rule and that no Underwriter shall be liable for the failure of any other Underwriter, or of any dealer who is a member of a selling group, or of any broker-dealer that is a party to a retail distribution agreement to comply with its corresponding agreement regarding the Hold-the-Offering-Price Rule as applicable to the Series 2025 Bonds.

(g) By submitting a bid, each bidder confirms that: (i) any agreement among underwriters, any selling group agreement and each retail distribution agreement (to which the bidder is a party) relating to the initial sale of the Series 2025 Bonds to the Public, together with the related pricing wires, contains or will contain language obligating each Underwriter, each dealer who is a member of the selling group, and each broker-dealer that is a party to such retail distribution agreement, as applicable, to (A) report the prices at which it sells to the Public the unsold Series 2025 Bonds of each maturity allotted to it until it is notified by the winning bidder that either the 10% Test has been satisfied as to the Series 2025 Bonds of that maturity or all Series 2025 Bonds of that maturity have been sold to the Public and (B) comply with the Hold-the-Offering-Price Rule, if applicable, in each case if and for so long as directed by the winning bidder and as set forth in the related pricing wires; and (ii) any agreement among underwriters relating to the initial sale of the Series 2025 Bonds to the Public, together with the related pricing wires, contains or will contain language obligating each Underwriter that is a party to a retail distribution agreement to be employed in connection with the initial sale of the Series 2025 Bonds to the Public to require each broker-dealer that is a party to such retail distribution agreement to (A) report the prices at which it sells to the Public the unsold Series 2025 Bonds of each maturity allotted to it until it is notified by the winning bidder or such Underwriter that either the 10% Test has been satisfied as to the Series 2025 Bonds of that maturity or all Series 2025 Bonds of that maturity have been sold to the Public and (B) comply with the Hold-the-Offering-Price Rule, if applicable, in each case if and for so long as directed by the winning bidder or such Underwriter and as set forth in the related pricing wires.

(h) Sales of any Series 2025 Bonds to any person that is a Related Party (as defined herein) to an Underwriter shall not constitute sales to the Public for purposes of this Notice of Bond Sale. Further, for purposes of this Notice of Bond Sale:

(i) "Public" means any person other than an Underwriter or a Related Party,

(ii) "Underwriter" means (A) any person that agrees pursuant to a written contract with the City (or with the lead Underwriter to form an underwriting

syndicate) to participate in the initial sale of the Series 2025 Bonds to the Public and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) to participate in the initial sale of the Series 2025 Bonds to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Series 2025 Bonds to the Public),

(iii) a purchaser of any of the Series 2025 Bonds is a "Related Party" to an Underwriter if the Underwriter and the purchaser are subject, directly or indirectly, to (i) at least 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (ii) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (iii) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interests or profit interests of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other), and

(iv) "Sale Date" means the date that the Series 2025 Bonds are awarded by the City to the winning bidder.

Failure to provide the reoffering prices and yields, and to certify the same in a form satisfactory to Bond Counsel, may result in cancellation of the sale and/or forfeiture of the winning bidder's good faith deposit.

Official Statement. The Preliminary Official Statement, dated on or about [April 4, 2025], and the information contained therein has been deemed final by the City as of its date within the meaning of Rule 15c2-12 of the Securities and Exchange Commission ("Rule 15c2-12") with permitted omissions, but is subject to change without notice and to completion or amendment in the Final Official Statement in final form (the "Final Official Statement" or the "Official Statement"). The Notice of Bond Sale and the Preliminary Official Statement may be viewed and downloaded at www.meritos.com and at www.i-dealprospectus.com or a physical copy may be obtained by contacting the City's Municipal Advisor. See "—Information" below.

The City, at its expense, will make available to the winning bidder, within seven (7) business days after the award of the sale of the Series 2025 Bonds, up to 10 physical copies of the Final Official Statement, and additional copies of the Final Official Statement may be provided at the winning bidder's expense. The winning bidder must cooperate in providing the information required to complete the Final Official Statement. The City will also provide the Final Official Statement to the winning bidder in electronic form.

The winning bidder shall comply with the requirements of Rule 15c2-12 and the rules of the Municipal Securities Rulemaking Board.

Continuing Disclosure Undertaking. Pursuant to Rule 15c2-12, the City has covenanted to provide, in a timely manner, to the municipal securities information repository at

http://emma.msrb.org notice of the occurrence of specified events and to provide certain financial information on an annual basis as more fully set forth in the Preliminary Official Statement. Reference is made to the Preliminary Official Statement for a more complete description of the City's continuing disclosure obligations.

State Securities Laws. The City has taken no action to qualify the offer or sale of the Series 2025 Bonds under the securities laws of any state. Should any such qualification be necessary, the City agrees to cooperate with the winning bidder in such matters, provided that the City reserves the right not to consent to service of process outside its boundaries and expenses related to any such qualification shall be the responsibility of the winning bidder.

CUSIP Numbers. CUSIP numbers ordered by the Municipal Advisor will be issued and printed on the Series 2025 Bonds. Any error or omission in printing such numbers on the Series 2025 Bonds will not constitute cause for the winning bidder to refuse delivery of any Series 2025 Bond. All expenses in relation to obtaining the CUSIP numbers and printing of the CUSIP numbers on the Series 2025 Bonds shall be paid for by the winning bidder.

Legal Opinion, Series 2025 Bonds and Transcript. The validity and enforceability of the Series 2025 Bonds will be approved by the City's Bond Counsel:

Kutak Rock LLP
2001 16th Street
Suite 1800
Denver, Colorado 80202
(303) 297-2400
FAX: (303) 292-7799
www.kutakrock.com

The purchaser of the Series 2025 Bonds will receive a certified transcript of legal proceedings which will include, among other items:

(a) a certificate of the City to the effect that, as of its date, the Preliminary Official Statement was deemed final within the meaning of Rule 15c2-12, except for the omissions permitted under Rule 15c2-12;

(b) a certificate executed by officials of the City to the effect that there is no litigation pending or, to their knowledge, threatened affecting the validity of the Series 2025 Bonds as of the date of their delivery;

(c) a certificate of the City to the effect that, as of the date of the Official Statement and at all times to and including the date of delivery of the Series 2025 Bonds, the Official Statement did not contain any untrue statement of a material fact or omit any statement of a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; and

(d) the letter dated the date of the delivery of the Series 2025 Bonds, of Butler Snow LLP, Special Counsel to the City, addressed to the City but not to the purchaser of the Series 2025 Bonds, to the effect that although they have made no independent

investigation or verification of the correctness and completeness of the information included in the Official Statement, nothing that came to their attention in rendering legal services in connection with the preparation of the Official Statement causes them to believe that the Official Statement (excepting financial, demographic, economic and statistical information, any forecasts, estimates and assumptions, and any expressions of opinion, as to which they will express no belief), as of its date, contained any untrue statement of a material fact or omitted to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(e) the opinion of Kutak Rock LLP, Bond Counsel, in substantially the form set forth as Appendix E to the Preliminary Official Statement.

Right To Modify or Amend Notice of Bond Sale. The City reserves the right to modify or amend this Notice of Bond Sale and the Bid Form, prior to the bid date. If any modifications occur, supplemental information with respect to the Series 2025 Bonds will be communicated by posting on the PARITY website not later than 3:00 p.m. Mountain Time on the day preceding the day on which proposals may be submitted, and bidders shall bid upon the Series 2025 Bonds based upon the terms thereof set forth in this Notice of Bond Sale, as so modified by such supplemental information.

Postponement of Sale. The City reserves the right to postpone the date and time established for the receipt of bids. Any such postponement will be announced by posting on PARITY prior to commencement of the bidding. If any date and time fixed for the receipt of bids and the sale of the Series 2025 Bonds is postponed, an alternative sale date and time will be announced at least one business day prior to such alternative sale date. On any such alternative sale date and time, any bidder may submit bids electronically as described above for the purchase of the Series 2025 Bonds in conformity in all respects with the provision of this Notice of Bond Sale, except for the date and time of sale and except for any changes announced by posting on PARITY at the time the sale date and time are announced.

By order of the City Council of the City of Boulder, Colorado, this Notice of Bond Sale is dated the [4th day of April, 2025].

By */s/ Aaron Brockett*
Mayor, City of Boulder, Colorado

By */s/ Joel Wagner*
Interim Chief Financial Officer
City of Boulder, Colorado

APPENDIX A

FORM OF ISSUE PRICE CERTIFICATE

$[_____]*
CITY OF BOULDER, COLORADO
(Acting through its Stormwater and Flood Management Utility Enterprise)
STORMWATER AND FLOOD MANAGEMENT REVENUE BONDS
SERIES 2025

The undersigned, on behalf of [NAME OF UNDERWRITER] ("[SHORT NAME OF UNDERWRITER]"), hereby certifies as set forth below with respect to the sale of the above-captioned obligations (the "Series 2025 Bonds") by the City of Boulder, Colorado, acting by and through its Stormwater and Flood Management Utility Enterprise (the "City") [*Sections 1 and 2 and schedules to be adjusted in execution version as necessary if all of the requirements of a "competitive sale" are not satisfied.*]

1. ***Reasonably Expected Initial Offering Price***.

(a) As of [THE SALE DATE], the reasonably expected initial offering prices of the Series 2025 Bonds to the Public by [SHORT NAME OF UNDERWRITER] are the prices listed in Schedule A (the "Expected Offering Prices"). The Expected Offering Prices are the prices for the Maturities of the Series 2025 Bonds used by [SHORT NAME OF UNDERWRITER] in formulating its bid to purchase the Series 2025 Bonds. Attached as Schedule B is a true and correct copy of the bid provided by [SHORT NAME OF UNDERWRITER] to purchase the Series 2025 Bonds.

(b) [SHORT NAME OF UNDERWRITER] was not given the opportunity to review other bids prior to submitting its bid.

(c) The bid submitted by [SHORT NAME OF UNDERWRITER] constituted a firm offer to purchase the Series 2025 Bonds.

2. ***Defined Terms***.

(a) "*Maturity*" means Series 2025 Bonds with the same credit and payment terms. Series 2025 Bonds with different maturity dates, or Series 2025 Bonds with the same maturity date but different stated interest rates, are treated as separate Maturities.

(b) "*Public*" means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter or a related party to an Underwriter. The term "related party" for purposes of this certificate generally means any two or more persons who have greater than 50 percent common ownership, directly or indirectly.

*Preliminary; subject to adjustment as set forth herein.

(c) "*Underwriter*" means (i) any person that agrees pursuant to a written contract with the City (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Series 2025 Bonds to the Public, and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this paragraph to participate in the initial sale of the Series 2025 Bonds to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Series 2025 Bonds to the Public).

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents [SHORT NAME OF UNDERWRITER]'s interpretation of any laws, including specifically Sections 103 and 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the City with respect to certain of the representations set forth in the Tax Compliance Certificate and with respect to compliance with the federal income tax rules affecting the Series 2025 Bonds, and by Kutak Rock LLP in connection with rendering its opinion that the interest on the Series 2025 Bonds is excluded from gross income for federal income tax purposes, the preparation of the Internal Revenue Service Form 8038-G, and other federal income tax advice that it may give to the City from time to time relating to the Series 2025 Bonds.

IN WITNESS WHEREOF, the undersigned, on behalf of [SHORT NAME OF UNDERWRITER], has set his or her hand as of the date first written above.

[UNDERWRITER]

By: _____

Name: _____

Title: _____

SCHEDULE A

EXPECTED OFFERING PRICES

[ATTACH]

SCHEDULE B

UNDERWRITER'S BID

[ATTACH]

PRELIMINARY OFFICIAL STATEMENT DATED APRIL 4, 2025

NEW ISSUE **RATING: S&P: ___**
BOOK-ENTRY ONLY **See "RATING"**

In the opinion of Kutak Rock LLP, Bond Counsel, under existing laws, regulations, rulings and judicial decisions, and assuming the accuracy of certain representations and continuing compliance by the City with certain covenants, interest on the 2025 Bonds is excludable from gross income for federal income tax purposes and is not a specific preference item for purposes of the federal alternative minimum tax imposed on individuals. Interest on the 2025 Bonds may affect the federal alternative minimum tax imposed on certain corporations. Bond Counsel is also of the opinion that, under existing State of Colorado statutes, to the extent interest on the 2025 Bonds is excludable from gross income for federal income tax purposes, such interest on the 2025 Bonds is excludable from gross income for Colorado income tax purposes and from the calculation of Colorado alternative minimum taxable income. See "TAX MATTERS" herein for a more detailed discussion.

**$_____*
CITY OF BOULDER, COLORADO
STORMWATER AND FLOOD MANAGEMENT REVENUE BONDS
SERIES 2025**

Dated: Date of Delivery **Due: December 1, as shown herein**

The City of Boulder, Colorado (the "City") is issuing its Stormwater and Flood Management Revenue Bonds, Series 2023 (the "2025 Bonds"). The 2025 Bonds are issued as fully registered bonds in denominations of $5,000, or any integral multiple thereof. The 2025 Bonds initially will be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"), which is acting as the securities depository for the 2025 Bonds. Purchases of the 2025 Bonds are to be made in book-entry form only. Purchasers will not receive certificates representing their beneficial ownership interest in the 2025 Bonds. See "THE 2025 BONDS-Book-Entry Only System." The 2025 Bonds bear interest at the rates set forth herein, payable on June 1, 2025, and semiannually thereafter on June 1 and December 1 of each year, to and including the maturity dates shown on the inside cover hereof (unless the 2025 Bonds are redeemed earlier), to the registered owner of the 2025 Bonds, initially Cede & Co. The principal of, and premium, if any, on the 2025 Bonds will be payable upon presentation and surrender at U.S. Bank Trust Company, National Association, at its operations center in St. Paul, Minnesota, or its successor as the paying agent for the 2025 Bonds. See "THE 2025 BONDS."

The **maturity schedule for the 2025 Bonds appears on the inside cover page of this Official Statement.**

The 2025 Bonds are subject to redemption prior to maturity at the option of the City as described in "THE 2025 BONDS-Redemption Provisions." At the option of the winning bidder, the 2025 Bonds may also be subject to mandatory sinking fund redemption.

Proceeds of the 2025 Bonds will be used to: (i) acquire, construct, improve and equip various stormwater and flood mitigation improvements to the City's municipal Stormwater and Flood Management System (collectively, the "Facilities") as further described herein; (ii) purchase

* Preliminary, subject to change.

a reserve fund surety bond and (iii) pay the costs of issuing the 2025 Bonds. See "SOURCES AND USES OF FUNDS."

The 2025 Bonds are special, limited obligations of the City payable solely from the Net Income (defined herein) derived from the operation or use of the Facilities. The 2025 Bonds constitute an irrevocable and first lien (but not necessarily an exclusive first lien) upon the Net Income on a parity with the lien thereon of certain Outstanding Parity Bonds, as described herein, and any additional Parity Bonds issued in the future. **The 2025 Bonds do not constitute a debt or an indebtedness of the City within the meaning of any constitutional, charter or statutory provision, and shall not be considered or held to be general obligation of the City. Owners of the 2025 Bonds may not look to any other funds or accounts other than those specifically pledged by the City to the payment of the 2025 Bonds.** See "SECURITY FOR THE 2025 BONDS."

This cover page contains certain information for quick reference only. It is *not* a summary of the issue. Investors must read the entire Official Statement to obtain information essential to making an informed investment decision.

The 2025 Bonds are offered when, as, and if issued by the City and accepted by the initial purchaser of the Bonds (the "Initial Purchaser"), subject to the approval of legality of the 2025 Bonds by Kutak Rock LLP, Denver, Colorado, Bond Counsel, and the satisfaction of certain other conditions. Butler Snow LLP, Denver, Colorado, has acted as special counsel to the City in connection with the Official Statement. Certain legal matters will be passed upon for the City by the City Attorney. Hilltop Securities Inc., Denver, Colorado, is acting as the Municipal Advisor to the City. It is expected that the 2025 Bonds will be available for delivery through the facilities of DTC, on or about April 30, 2025*.

$_____*

CITY OF BOULDER, COLORADO

STORMWATER AND FLOOD MANAGEMENT REVENUE BONDS
SERIES 2025

MATURITY SCHEDULE*
(CUSIP© 6-DIGIT ISSUER NUMBER: _____)

Maturing (December 1)	Principal Amount	Interest Rate	Yield	CUSIP© Issue Number	Maturing (December 1)	Principal Amount	Interest Rate	Yield	CUSIP© Issue Number
2025					2035				
2026					2036				
2027					2037				
2028					2038				
2029					2039				
2030					2040				
2031					2041				
2032					2042				
2033					2043				
2034					2044				

* Preliminary, subject to change.

USE OF INFORMATION IN THIS OFFICIAL STATEMENT

This Official Statement, which includes the cover page, the inside cover page and the appendices, does not constitute an offer to sell or the solicitation of an offer to buy any of the 2025 Bonds in any jurisdiction in which it is unlawful to make such offer, solicitation, or sale. No dealer, salesperson, or other person has been authorized to give any information or to make any representations other than those contained in this Official Statement in connection with the offering of the 2025 Bonds, and if given or made, such information or representations must not be relied upon as having been authorized by the City. The City maintains an internet website; however, the information presented there is not a part of this Official Statement and should not be relied upon in making an investment decision with respect to the 2025 Bonds.

The information set forth in this Official Statement has been obtained from the City, from the sources referenced throughout this Official Statement and from other sources believed to be reliable. No representation or warranty is made by the City, however, as to the accuracy or completeness of information received from parties other than the City. This Official Statement contains, in part, estimates and matters of opinion which are not intended as statements of fact, and no representation or warranty is made as to the correctness of such estimates and opinions, or that they will be realized.

The information, estimates, and expressions of opinion contained in this Official Statement are subject to change without notice, and neither the delivery of this Official Statement nor any sale of the 2025 Bonds shall, under any circumstances, create any implication that there has been no change in the affairs of the City, or in the information, estimates, or opinions set forth herein, since the date of this Official Statement.

This Official Statement has been prepared only in connection with the original offering of the 2025 Bonds and may not be reproduced or used in whole or in part for any other purpose.

The 2025 Bonds have not been registered with the Securities and Exchange Commission due to certain exemptions contained in the Securities Act of 1933, as amended. The 2025 Bonds have not been recommended by any federal or state securities commission or regulatory authority, and the foregoing authorities have neither reviewed nor confirmed the accuracy of this document.

THE PRICES AT WHICH THE 2025 BONDS ARE OFFERED TO THE PUBLIC BY THE INITIAL PURCHASER (AND THE YIELDS RESULTING THEREFROM) MAY VARY FROM THE INITIAL PUBLIC OFFERING PRICES OR YIELDS APPEARING ON THE INSIDE COVER PAGE HEREOF. IN ADDITION, THE UNDERWRITER MAY ALLOW CONCESSIONS OR DISCOUNTS FROM SUCH INITIAL PUBLIC OFFERING PRICES TO DEALERS AND OTHERS. IN ORDER TO FACILITATE DISTRIBUTION OF THE 2025 BONDS, THE INITIAL PURCHASER MAY ENGAGE IN TRANSACTIONS INTENDED TO STABILIZE THE PRICE OF THE 2025 BONDS AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

CITY OF BOULDER, COLORADO

CITY COUNCIL

Aaron Brockett, Mayor
Lauren Folkerts, Mayor Pro Tem
Mark Wallach, Council Member
Matt Benjamin, Council Member
Nicole Speer, Council Member
Tina Marquis, Council Member
Taishya Adams, Council Member
Tara Winer, Council Member
Ryan Schuchard, Council Member

CITY OFFICIALS

Nuria Rivera-Vandermyde, City Manager
Teresa Taylor Tate, City Attorney
Joel Wagner, Interim Chief Financial Officer

BOND COUNSEL

Kutak Rock LLP
Denver, Colorado

DISCLOSURE COUNSEL

Butler Snow LLP
Denver, Colorado

REGISTRAR AND PAYING AGENT

U.S. Bank Trust Company, National Association
Denver, Colorado

MUNICIPAL ADVISOR

Hilltop Securities Inc.
Denver, Colorado

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INDEX OF TABLES

NOTE: Tables marked with an (*) indicate Annual Financial Information to be updated pursuant to SEC Rule 15c2-12, as amended. See "INTRODUCTION-Continuing Disclosure Certificate" and Appendix D - Form of Continuing Disclosure Certificate.

The information to be updated may be reported in any format chosen by the City; it is not required that the format reflected in this Official Statement be used in future years.

OFFICIAL STATEMENT

$_____
CITY OF BOULDER, COLORADO
STORMWATER AND FLOOD MANAGEMENT REVENUE BONDS
SERIES 2025

INTRODUCTION

General

This Official Statement, including the cover page, the inside cover page and the appendices, is furnished by the City of Boulder (the "City"), a home rule city of the State of Colorado (the "State"), to provide information about the City and the $_____* Stormwater and Flood Management Revenue Bonds, Series 2025 (the "2025 Bonds"), to be issued by the City. The 2025 Bonds will be issued pursuant to an ordinance (the "Bond Ordinance") adopted by the City Council of the City (the "City Council") prior to the issuance of the 2025 Bonds.

The offering of the 2025 Bonds is made only by way of this Official Statement, which supersedes any other information or materials used in connection with the offer or sale of the 2025 Bonds. The following introductory material is only a brief description of and is qualified by the more complete information *contained throughout this Official Statement. A full review should be made of the entire Official Statement and the documents summarized or described herein. Detachment or other use of this "INTRODUCTION" without the entire Official Statement, including the cover page, the inside cover page, and appendices, is unauthorized. Unless otherwise provided, capitalized terms used herein have the meanings given to them in the Bond Ordinance.*

The Issuer

The City is a municipal corporation duly organized and existing under the laws of the State. In particular, the City is a home rule city and adopted a charter pursuant to Article XX of the Colorado Constitution by vote of the electorate on October 30, 1917 (the "City Charter"). The City is located in north central Colorado, approximately 25 miles northwest of Denver. The City is situated at the base of the foothills of the Front Range of the Rocky Mountains at an altitude of 5,354 feet. The City encompasses 25 square miles, and is the county seat of Boulder County, Colorado (the "County"). The City's estimated population is approximately 107,000 persons. See "THE CITY."

In 1973 the City established a stormwater and flood management utility (the "Stormwater and Flood Management Utility") responsible for protecting the City and its residents from Stormwater runoff and providing flood management, as described in further detail herein. See "THE STORMWATER AND FLOOD MANAGEMENT UTILITY." As an additional expense billed monthly to customers as a part of the City's utility bill, a stormwater and flood management fee is charged pursuant to Section 4-20-45, Boulder Revised Code, as amended (the "Fee"). The Stormwater and Flood Management Utility constitutes an "enterprise" for purposes of Article X, Section 20 of the Colorado Constitution ("TABOR").

Authority for Issuance

The 2025 Bonds are issued pursuant to the Constitution and laws of the State, including particularly the City Charter, the Bond Ordinance and Part 2, Article 57, Title 11 of the Colorado Revised Statutes (the "Supplemental Public Securities Act").

Purpose

Proceeds of the 2025 Bonds will be used to: (i) acquire, construct, improve and equip various stormwater and flood mitigation improvements for the first phase of the South Boulder Creek Flood Mitigation Project, including the acquisition of ownership and easement interest in real property necessary for such improvements, (the "Project"), as more fully described below; (ii) purchase a reserve fund surety bond; and (iii) pay the costs of issuing the 2025 Bonds. See "SOURCES AND USES OF FUNDS."

The Project includes but is not limited to the South Boulder Creek Flood Mitigation project, which will mitigate the effects of floods for community members and crucial infrastructure such as US-36 and Foothills Parkway.

Security

General; Special Limited Obligations. The 2025 Bonds will be payable solely from and secured by the Net Income derived from the Fee and interest earning with respect thereto, which Net Income consist of the Gross Income from the Fee (i.e., all income derived directly or indirectly by the City from the Stormwater And Flood Management Fee billed to customers of the City's water and sewer systems pursuant to Section 4-20-45, Boulder Revised Code, as amended, and interest earnings with respect thereto), less Operation And Maintenance Expenses related to the Stormwater and Flood Management Utility System. The Net Income will secure the 2025 Bonds and any bonds that are issued and secured by a lien on the Net Income derived from the Fee on a parity with or subordinate to the lien thereon of the Series 2025 Bonds, including the City's Stormwater and Flood Management Revenue Bonds, Series 2015, dated July 20, 2015 (the "2015 Bonds" or the "Parity Bonds"), which are presently outstanding in the aggregate principal amount of $13,415,000.

Reserve Fund. Upon delivery of the 2025 Bonds, the City will fund a Reserve Fund for the 2025 Bonds in an amount equal to the "Minimum Bond Reserve" (defined herein). The Minimum Bond Reserve for the 2025 Bonds will be funded with a reserve fund surety bond (the "2025 Reserve Policy") provided by _____. ("_____" or "2025 Reserve Policy Provider"). See "SECURITY FOR THE 2025 BONDS-Reserve Fund."

The Series 2025 Bonds will not constitute an indebtedness or a debt of the City within the meaning of any constitutional, charter or statutory provision or limitation, will not be payable from the proceeds of general property taxes, and will not be considered or held to be general obligations of the City, but will be its special obligations, payable as aforesaid.

Rate Covenant. The City has covenanted in the Bond Ordinance to Ordinance to set the Fee such that Gross Income will be adequate annually to pay the annual Operation and Maintenance Expenses of the Stormwater and Flood Management Utility and 125% of the both

the principal of and the interest on the 2025 Bonds and any other bonds payable annually from Gross Income (excluding the reserves therefor), all of which Gross Income, including any income received from the City, shall be subject to distribution to the payment of Operation and Maintenance Expenses of the Stormwater and Flood Management Utility System and to the payment of principal of and interest on all bonds payable from the Fee, including reasonable reserves therefor.

Additional Bonds. Upon the issuance of the 2025 Bonds, the 2015 Bonds and the 2025 Bonds will be the only obligations outstanding and payable from the Net Income derived from the Fee. Additional bonds may be issued which will be payable from Net Income derived from the Fee on parity with the lien thereon of the 2015 Bonds and the 2025 Bonds upon the conditions set forth in the Bond Ordinance authorizing the 2025 Bonds. Further, subordinate bonds are permitted to be issued and secured by a lien on the Net Income derived from the Fee subordinate to the lien thereon of 2015 Bonds and 2025 Bonds. No determination yet has been made by the City as to whether additional bonds will be issued in the next five (5) years. See "THE FACILITIES-Future Capital Improvements."

The 2025 Bonds; Prior Redemption

The 2025 Bonds are issuable as fully registered bonds in the denominations of $5,000 and integral multiples thereof. The 2025 Bonds are dated as of the date of delivery and bear interest from their date or such later date to which interest has been paid, payable semiannually on June 1 and December 1 of each year, commencing on June 1, 2025. The 2025 Bonds bear interest at the rates and mature in the amounts and on the dates set forth on the inside cover page of this Official Statement.

The 2025 Bonds will be issued as fully registered bonds without coupons and will initially be registered in the name of "Cede & Co.," as nominee of The Depository Trust Company ("DTC"), as securities depository for the 2025 Bonds. Purchases of the 2025 Bonds are to be made in book entry only form in principal amounts of $5,000 or any integral multiple thereof. The principal of and premium, if any, on the 2025 Bonds are payable at U.S. Bank Trust Company, National Association, at its operations center in St. Paul, Minnesota (together with any successors or assignees, the "Paying Agent" and "Registrar"). Payment of interest on any 2025 Bond will be payable by wire transfer on the interest payment date to Cede & Co. Payments to the owners of the 2025 Bonds are to be made as described in Appendix C - Book Entry Only System.

The 2025 Bonds are subject to redemption prior to maturity at the option of the City as described in "THE 2025 BONDS-Redemption Provisions." At the option of the winning bidder, the 2025 Bonds also may be subject to mandatory sinking fund redemption at the option of the City. See the Notice of Public Sale dated April 305, 2025.

Professionals

Kutak Rock LLP, Denver, Colorado, has acted as Bond Counsel in connection with the execution and delivery of the 2025 Bonds. Butler Snow, LLP, Denver, Colorado, has acted as disclosure counsel to the City in connection with this Official Statement. As is customary, the fees of Kutak Rock LLP and Butler Snow LLP will be paid only at closing from the proceeds of the

2025 Bonds. Certain legal matters will be passed on for the City by the City Attorney. U.S. Bank Trust Company, National Association will act as the Paying Agent and Registrar for the 2025 Bonds. The basic financial statements of the City included in this Official Statement as Appendix A have been audited by CliftonLarsonAllen LLP, Certified Public Accountants, Broomfield, Colorado. See "INDEPENDENT AUDITORS." Hilltop Securities Inc., Denver, Colorado, is acting as the Municipal Advisor to the City (the "Municipal Advisor"). See "MUNICIPAL ADVISOR." The fees of the Municipal Advisor will also be paid at closing from the proceeds of the 2025 Bonds.

Tax Status

In the opinion of Kutak Rock LLP, Bond Counsel, under existing laws, regulations, rulings and judicial decisions, and assuming the accuracy of certain representations and continuing compliance by the City with certain covenants, interest on the 2025 Bonds is excludable from gross income for federal income tax purposes and is not a specific preference item for purposes of the federal alternative minimum tax imposed on individuals. Interest on the 2025 Bonds may affect the federal alternative minimum tax imposed on certain corporations. Bond Counsel is also of the opinion that, under existing State of Colorado statutes, to the extent interest on the 2025 Bonds is excludable from gross income for federal income tax purposes, such interest on the 2025 Bonds is excludable from gross income for Colorado income tax purposes and from the calculation of Colorado alternative minimum taxable income. See "TAX MATTERS" herein for a more detailed discussion.

Continuing Disclosure Undertaking

The City will execute a continuing disclosure certificate (the "Disclosure Undertaking") at the time of the closing for the 2025 Bonds. The Disclosure Undertaking will be executed for the benefit of the beneficial owners of the 2025 Bonds and the City covenants in the Bond Ordinance to comply with its terms. The Disclosure Undertaking will provide that so long as the 2025 Bonds remains outstanding, the City will provide the following information to the Municipal Securities Rulemaking Board, through the Electronic Municipal Market Access ("EMMA") system: (i) annually, certain financial information and operating data; and (ii) notice of the occurrence of certain material events; each as specified in the Disclosure Undertaking. The form of the Disclosure Undertaking is attached hereto as Appendix D.

The City has procedures in place to assist it with compliance with its continuing disclosure undertakings.

Forward-Looking Statements

This Official Statement, particularly (but not limited to) the information contained under the headings "CERTAIN RISK FACTORS," "SECURITY FOR THE 2025 BONDS-Historical Net Income and Pro Forma Debt Service Coverage", and "THE FACILITIES-Budgets" contains statements relating to future results that are "forward-looking statements" as defined in the Private Securities Litigation Reform Act of 1995. When used in this Official Statement, the words "estimate," "forecast," "intend," "expect" and similar expressions identify forward-looking statements. Any forward-looking statement is subject to uncertainty. Accordingly, such

statements are subject to risks that could cause actual results to differ, possibly materially, from those contemplated in such forward-looking statements. Inevitably, some assumptions used to develop forward-looking statements will not be realized or unanticipated events and circumstances may occur. Therefore, investors should be aware that there are likely to be differences between forward looking statements and actual results. Those differences could be material and could impact the availability of Net Income to pay debt service on the 2025 Bonds.

Additional Information

This introduction is only a brief summary of the provisions of the 2025 Bonds and the Bond Ordinance; a full review of the entire Official Statement should be made by potential investors. Brief descriptions of the 2025 Bonds, the Bond Ordinance, the City, and the Project are included in this Official Statement. All references herein to the 2025 Bonds, the Bond Ordinance and other documents are qualified in their entirety by reference to such documents. *This Official Statement speaks only as of its date and the information contained herein is subject to change*.

Additional information and copies of the documents referred to herein are available from the City and the Municipal Advisor:

City of Boulder, Colorado
Attn: Finance Department
1777 Broadway
Boulder, Colorado 80302
Telephone: (303) 441-3040

Hilltop Securities Inc.
8055 E. Tufts Street, Suite 350
Denver, Colorado 80237
Telephone: (303) 771-0217

CERTAIN RISK FACTORS

The purchase of the 2025 Bonds involves special risks and uncertainties; the 2025 Bonds may not be appropriate investments for all types of investors. Each prospective investor is encouraged to read this Official Statement in its entirety and to give particular attention to the factors described below, which, among other factors discussed herein, could affect the payment of debt service on the 2025 Bonds and could affect the market price of the 2025 Bonds to an extent that cannot be determined at this time. *The following does not purport to be an exhaustive listing of risks and other considerations that may be relevant to investing in the 2025 Bonds. In addition, the order in which the following information is presented is not intended to reflect the relative importance of such risks.*

Limited Obligations

General. The 2025 Bonds constitute special, limited obligations of the City. The principal of and interest on the 2025 Bonds is payable solely from and secured by an irrevocable pledge of the Net Income derived by the City from the Fee, together with certain interest income and other amounts as provided in the Bond Ordinance. The 2025 Bonds constitute an irrevocable pledge of the Net Income on parity with the lien thereon of the Parity Bonds and any additional Parity Bonds. See "SECURITY FOR THE 2025 BONDS." **The 2025 Bonds do not constitute a general obligation of the City. Owners of the 2025 Bonds may not look to any funds or accounts of the City other than those specifically pledged to the payment of the 2025 Bonds.**

The ability of the City to meet its payment obligations under the Bond Ordinance will depend upon the ability of the Fee to generate enough Gross Income to meet such obligations, the operating expenses, debt service on other debt or obligations, extraordinary costs or expenses that may occur and other costs and expenses. Accordingly, investors should be aware that future revenues and expenses of the City will be subject to conditions that may differ materially from current conditions to an extent that cannot be determined at this time.

No Mortgage Secures the 2025 Bonds. The payment of the 2025 Bonds is not secured by an encumbrance, mortgage, or other pledge of property of the City, except for the Net Income and other moneys pledged for the payment of the debt service requirements of the 2025 Bonds. No property of the City, subject to such exception, shall be liable to be forfeited or taken in payment of the 2025 Bonds. See "SECURITY FOR THE 2025 BONDS-Limited Obligations."

Additional Bonds

Under the Bond Ordinance, the City is permitted to incur other debt payable on a parity with the lien of the 2025 Bonds. See "SECURITY FOR THE 2025 BONDS-Additional Bonds." Debt service on all Parity Bonds of the City will be payable from Net Income on a pro-rata basis. Accordingly, to the extent that future obligations are issued on a parity with the lien of the 2025 Bonds and 2015 Bonds, the security for the 2025 Bonds may be diluted.

No determination yet has been made by the City as to whether Additional Bonds will be issued in the next five (5) years to meet its capital needs. See "INTRODUCTION-Additional Bonds," and "The FACILITIES-Future Capital Improvements."

Constitutional Limitations on Enterprises

The City has concluded that its Facilities each presently qualify as an "enterprise" under the provisions of Article X, Section 20 of the Colorado Constitution ("TABOR"). If the City's Stormwater, water and/or wastewater operations should fail at some time in the future to qualify as an enterprise for purposes of TABOR, the related Facility would become subject to the limitations of TABOR, including, without limitation, the spending limits contained in TABOR. See "LEGAL MATTERS-Certain Constitutional Limitations." If the City fails to maintain the enterprise status of either Facility, that event will not adversely affect the validity or enforceability of the 2025 Bonds but may affect the City's ability to collect Net Income in an amount enough to pay debt service.

Limitations on Remedies Available to Owners of 2025 Bonds

No Acceleration. There is no provision for acceleration of maturity of the principal of the 2025 Bonds in the event of a default in the payment of principal of or interest on the 2025 Bonds. Consequently, remedies available to the owners of the 2025 Bonds may have to be enforced from year to year.

Bankruptcy, Federal Lien Power and Police Power. The enforceability of the rights and remedies of the owners of the 2025 Bonds and the obligations incurred by the City in issuing the 2025 Bonds are subject to the federal bankruptcy code and applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws relating to or affecting the enforcement of creditors' rights generally, now or hereafter in effect; usual equity principles which may limit the specific enforcement under State law of certain remedies; the exercise by the United States of America of the powers delegated to it by the federal Constitution; the power of the federal government to impose liens in certain situations, which could result in a federal lien on the Net Income which is superior to the lien thereon of the 2025 Bonds; and the reasonable and necessary exercise, in certain exceptional situations, of the police power inherent in the sovereignty of the State and its governmental bodies in the interest of serving a significant and legitimate public purpose. Bankruptcy proceedings or the exercise of powers by the federal or State government, if initiated, could subject the owners of the 2025 Bonds to judicial discretion and interpretation of their rights in bankruptcy or otherwise, and consequently may entail risks of delay, limitation or modification of their rights.

No Trustee. There is no bond trustee or similar person or entity to monitor or enforce the provisions of the Bond Ordinance on behalf of the Owners of the 2025 Bonds, and therefore the Owners should be prepared to enforce such provisions themselves if the need to do so ever arises.

Delay in Enforcement of Liens

The City has the statutory authority to enforce payment of its rates and charges through liens on the real property of delinquent ratepayers. However, foreclosure of real property liens is a time-consuming and burdensome remedy. The delays involved in foreclosure could substantially delay the collection of Gross Income by the City. In addition, proceeds realized from the sale of real property, if any, may not be sufficient to cover the delinquent rates and charges after the payment of any senior liens on the property.

Future Changes in Laws

Various State and federal laws and constitutional provisions apply to the operation of the Facilities and the operation of the City. There is no assurance that there will not be any change in, interpretation of, or addition to the applicable laws, provisions, and regulations which would have a material effect, directly or indirectly, on the affairs of the City in the future**.**

Secondary Market

There is no guarantee that a secondary market for the 2025 Bonds will be created or maintained by the Initial Purchaser or others. Thus, prospective investors should be prepared to hold their 2025 Bonds to maturity.

SOURCES AND USES OF FUNDS

Sources and Uses of Funds

The City expects to apply the proceeds from the sale of the 2025 Bonds in the following manner:

Sources and Uses of Funds

Sources of Funds:	Amount
Par amount of 2025 Bonds	$_____.00
Plus: original issue premium	
Total	
Uses of Funds:	
The Project	
Costs of issuance (including underwriting discount and premium on the 2025 Reserve Policy)	
Total	

Source: The Municipal Advisor.

The Project

The Project includes but is not limited to the South Boulder Creek Flood Mitigation project, which will mitigate the effects of floods for community members and crucial infrastructure. The Project will include a 470-acre stormwater detention facility, a 2,300-foot-long spillway, and outletworks to convey the detained water under US-36 to return to South Boulder Creek. The Project includes approximately 36 acres property acquisition per an annexation agreement between the City and CU-Boulder approved in 2021 for the flood mitigation project and the potential to acquire 119 acres for city open space.

There are an estimated 600 structures and 3,500 people in the South Boulder Creek floodplain within the City limits. Over the last 80 years, South Boulder Creek has significantly flooded six times, with overtopping of US36 happening in 1969 and 2013. The area of flooding that occurs in the City after US36 is overtopped is referred to as the "West Valley".

As a result, the City has been working to mitigate future flood impacts over the last two decades. City council approved a flood mitigation plan for South Boulder Creek in 2015, with regional detention at US36 representing the first of three phases of flood mitigation along South Boulder Creek.

The purpose of the first phase of the South Boulder Creek Flood Mitigation Project is to provide protection for community members, property, major utilities and transportation infrastructure including US-36 and Foothills Parkway, while minimizing impacts to existing City open space in the area. City staff has been working collaboratively with CU-Boulder and the Colorado Department of Transportation (CDOT) in developing the design for flood mitigation along South Boulder Creek. The future phases are not part of the City's next six years Capital Improvement Plan. See "Capital Improvement Plan" herein. These future phases have been

prioritized along with the City's other flood management projects in the Comprehensive Flood and Stormwater Master Plan approved by the City Council in 2022.

THE 2025 BONDS

General Description

The 2025 Bonds are issuable as fully registered bonds in the denominations of $5,000 and integral multiples thereof. The 2025 Bonds are dated as of the date of delivery and bear interest from their date or such later date to which interest has been paid, payable semiannually on June 1 and December 1 of each year, commencing on June 1, 2025. The 2025 Bonds bear interest at the rates and mature in the amounts and on the dates set forth on the inside cover page of this Official Statement.

The 2025 Bonds will be issued as fully registered bonds without coupons and will initially be registered in the name of "Cede & Co.," as nominee of The Depository Trust Company ("DTC"), which is acting as the securities depository for the 2025 Bonds. Purchases by beneficial owners of the 2025 Bonds ("Beneficial Owners") are to be made in book-entry only form in the principal amount of $5,000 or any integral multiple thereof. Payments to Beneficial Owners are to be made as described below in "Book-Entry Only System" and Appendix C hereto.

Payment Provisions

Principal of each 2025 Bond shall be payable to the Owner thereof (initially Cede & Co.) upon presentation and surrender of such 2025 Bond at the principal operations office of the Paying Agent or at such other office of the Paying Agent designated by the Paying Agent for such purpose. Interest on each 2025 Bond shall be payable by check or draft of the Paying Agent mailed on each Interest Payment Date to the Owner thereof as of the close of business on the 15th day of the month prior to each Interest Payment Date with respect to the 2025 Bonds (the "Record Date"); provided that interest payable to any Owner may be paid by any other means agreed to by such Owner and the Paying Agent that does not require the City to make moneys available to the Paying Agent earlier than otherwise required hereunder or increase the costs borne by the City hereunder. All payments of the principal of and interest on the 2025 Bonds shall be made in lawful money of the United States of America.

Notwithstanding the foregoing, payments of the principal and interest on the 2025 Bonds will be made directly to DTC or its nominee, Cede & Co., by the Paying Agent, so long as DTC or Cede & Co. is the registered owner of the 2025 Bonds. Disbursement of such payments to DTC's Participants is the responsibility of DTC, and disbursement of such payments to the Beneficial Owners is the responsibility of DTC's Participants and the Indirect Participants, as more fully described herein. See "Book-Entry Only System" below.

Redemption Provisions

Optional Redemption. The 2025 Bonds maturing on and after December 1, 20__, are callable for redemption at the option of the City, in whole or in part, and if in part in such order of maturities as the City determines and by lot within a maturity on December 1, 20__, and on any

date thereafter, at a redemption price equal to the principal amount thereof, plus accrued interest to the redemption date.

Notice of Redemption. Notice of any redemption will be given by the Paying Agent in the name of the City, by sending a copy of such notice by certified or registered first class, postage prepaid mail, at least 30 days prior to the redemption date, to the Registered Owners of each of the 2025 Bonds being redeemed. Such notice shall specify the number or numbers of the 2025 Bonds so to be redeemed and the redemption date. If any of the 2025 Bonds shall have been duly called for redemption and if, on or before the redemption date, there shall have been deposited with the Paying Agent in the Bond Fund, funds sufficient to pay the redemption price of such 2025 Bonds at the redemption date, then said 2025 Bonds shall become due and payable at such redemption date, and from and after such date interest will cease to accrue thereon. Any 2025 Bonds redeemed prior to their maturity by call for prior redemption or otherwise shall not be reissued and shall be cancelled the same as 2025 Bonds paid at or after maturity.

Tax Covenants

In the Bond Ordinance, the City covenants that it shall not use or permit the use of any proceeds of the 2025 Bonds or any other funds of the City from whatever source derived, directly or indirectly, to acquire any securities or obligations and shall not take or permit to be taken any other action or actions, which would cause any of the 2025 Bonds to be an "arbitrage bond" within the meaning of Section 148 of the Code, or would otherwise cause the interest on the 2025 Bonds to be included in Gross Income for federal income tax purposes. The City covenants that it shall at all times do and perform all acts and things permitted by law and which are necessary in order to assure that interest paid by the City on the 2025 Bonds shall, for purposes of federal income taxation, not be included in Gross Income under the Code or any other valid provision of law.

In particular, but without limitation, the City further represents, warrants and covenants to comply with the following restrictions of the Code, unless it receives an opinion of nationally recognized bond counsel stating that such compliance is not necessary: (i) gross proceeds of the 2025 Bonds shall not be used in a manner which will cause the 2025 Bonds to be considered "private activity bonds" within the meaning of the Code; (ii) the 2025 Bonds are not and shall not become directly or indirectly "federally guaranteed;" (iii) the City shall timely file Internal Revenue Form 8038-G which shall contain the information required to be filed pursuant to Section 149(e) of the Code; and (iv) the City shall comply with the Tax Certificate and the Tax Letter of Instructions delivered to it on the date of issue of the 2025 Bonds with respect to the application and investment of 2025 Bond proceeds, subject to the provisions of the Bond Ordinance regarding the Rebate Fund.

Defeasance

When all principal and interest due in connection with the 2025 Bonds have been duly paid, the pledge and lien and all obligations under the Bond Ordinance will be discharged and the 2025 Bonds will no longer be deemed to be Outstanding within the meaning of the Bond Ordinance. There will be deemed to be such due payment when the City has placed in escrow or in trust with a commercial bank located within or without the State and exercising trust powers an amount sufficient (including the known minimum yield from Federal Securities in which such amount,

wholly or in part, may be initially invested) to meet all requirements of principal, interest and any prior redemption premiums due as the same become due to the final maturities of the 2025 Bonds or upon any prior redemption date as of which the City will have exercised or will have obligated itself to exercise its prior redemption option by a call of the 2025 Bonds for payment then. The Federal Securities will become due prior to the respective times on which the proceeds thereof will be needed in accordance with a schedule established and agreed upon between the City and such bank at the time of the creation of the escrow or trust, or the Federal Securities shall be subject to redemption at the option of the holders thereof to assure such availability as so needed to meet such schedule.

Book-Entry Only System

The 2025 Bonds will be available only in book-entry form in the principal amount of $5,000 or any integral multiples thereof. DTC will act as the initial securities depository for the 2025 Bonds. The ownership of one fully registered 2025 Bond for each maturity as set forth on the inside cover page of this Official Statement, each in the aggregate principal amount of such maturity, will be registered in the name of Cede & Co., as nominee for DTC. See Appendix C - Book-Entry Only System.

SO LONG AS CEDE & CO., AS NOMINEE OF DTC, IS THE REGISTERED OWNER OF THE 2025 BONDS, REFERENCES IN THIS OFFICIAL STATEMENT TO THE REGISTERED OWNERS OF THE 2025 BONDS WILL MEAN CEDE & CO. AND WILL NOT MEAN THE BENEFICIAL OWNERS.

None of the City, the Paying Agent or the Registrar will have any responsibility or obligation to DTC's Participants or Indirect Participants (defined herein), or the persons for whom they act as nominees, with respect to the payments to or the providing of notice for the Direct Participants, the Indirect Participants or the Beneficial Owners of the 2025 Bonds as further described in Appendix C to this Official Statement.

DEBT SERVICE REQUIREMENTS

Set forth below is a summary of the debt service requirements for the 2025 Bonds, the estimated combined debt service requirements for the Parity Bonds and the estimated combined debt service payable on the 2025 Bonds and the Parity Bonds.

Debt Service Requirements [1]

	The 2025 Bonds			Total	Grand
Year	Principal	Interest	Total	Parity Bonds [2]	Total
2025					
2026					
2027					
2028					
2029					
2030					
2031					
2032					
2033					
2034					
2035					
2036					
2037					
2038					
2039					
2040					
2041					
2042					
2043					
2044					
Total					

[1] Totals may not add due to rounding.
[2] Represents the total debt service payable on the Parity Bonds in each year.

Source: The Municipal Advisor.

SECURITY FOR THE 2025 BONDS

Limited Obligations

General. The 2025 Bonds will not constitute an indebtedness or a debt of the City within the meaning of any constitutional, charter or statutory provision or limitation, will not be payable from the proceeds of general property taxes, and will not be considered or held to be general obligations of the City, but rather are the City's special obligations payable solely from the Net Income derived from the Fee.

No Pledge of Property. The payment of the 2025 Bonds will not be secured by an encumbrance, mortgage, or other pledge of property of the City, except for the Net Income derived from the Fee and any other moneys that may be lawfully pledged for the payment of the 2025 Bonds pursuant to the Bond Ordinance. No property of the City, except as above stated, will be liable to be forfeited or taken in payment of the 2025 Bonds.

Pledge of Net Income

The 2025 Bonds are secured by and constitute an irrevocable and first lien (but not necessarily an exclusive lien) on the Net Income derived from the Fee. Net Income consist of the Gross Income from the Fee (i.e., all income derived directly or indirectly by the City from the Stormwater and Flood Management Fee billed to customers of the City's water and sewer systems pursuant to Section 4-20-45, Boulder Revised Code, as amended, and interest earnings with respect thereto), less Operation and Maintenance Expenses related to the Stormwater and Flood Management Utility System. The Net Income currently secures the 2015 Bonds, the 2025 Bonds and any additional bonds issued pursuant to the Bond Ordinance that are issued and secured by a lien on parity with the Net Income. See "Additional Bonds" below.

The 2025 Bonds from time to time Outstanding are equitably and ratably secured by a lien on Net Income derived from the Fee and shall not be entitled to any priority one over the other in the application of the Net Income derived from the Fee regardless of the time or times of the issuance of the 2025 Bonds.

Rate Maintenance Covenant

The City has covenanted in the Bond Ordinance to Ordinance to set the Fee such that Gross Income will be adequate annually to pay the annual Operation and Maintenance Expenses of the Stormwater and Flood Management Utility System and 125% of the both the principal of and the interest on the 2025 Bonds and any other bonds payable annually from Gross Income (excluding the reserves therefor), all of which Gross Income, including any income received from the City, shall be subject to distribution to the payment of Operation and Maintenance Expenses of the Stormwater and Flood Management Utility System and to the payment of principal of and interest on all bonds payable from the Fee, including reasonable reserves therefor.

Historical Net Income and Pro Forma Debt Service Coverage

The following table sets forth a history of Net Income derived from the Fee and a history of pro forma debt service coverage, calculated by dividing the Net Income to by the maximum

annual debt service on the Parity Bonds, after taking the issuance of the 2025 Bonds into account, for the years 2019 - 2023. The pro forma debt service coverage is not necessarily indicative of future coverage ratios. *Investors should be aware that collections of Net Income, or components thereof, may not continue at the levels stated below, and the coverage factors in future years may not remain at the historical levels indicated*. See "CERTAIN RISK FACTORS."

Pro-Forma Debt Service Coverage
(in thousands)

	2020	2021	2022	2023	2024[1]
Fee Revenue	$13,223	$14,846	$16,530	$18,968	
Non-Operating Revenue[2]	12	16	1,687	--	
Plant Investment Fees	1,364	1,059	487	2,675	
Total Gross Income	$14,599	$15,921	$18,704	$21,643	
Less Operating Expenses[3]	6,725	7,319	8,662	11,091	
Net Income Available for Debt Service	$7,874	$8,602	$10,042	$10,552	
Actual Annual Debt Service	1,592	1,591	1,590	1,588	1,590
Debt Service Coverage	4.95	5.41	6.31	6.64	
Maximum Annual Debt Service on 2015 Bonds and 2025 Bonds*	5,708	5,708	5,708	5,708	
Times Coverage*	1.38	1.51	1.76	1.85	

(1) Unaudited information only. Subject to changes and adjustments during the audit process.
(2) Includes leases, rents and royalties but not interest earnings or intergovernmental revenues.
(3) Excludes depreciation, amortization and interest expenses.

Special Funds under the Bond Ordinance

General. The Bond Ordinance establishes certain special funds and continues the authorization of other special funds which include the Stormwater and Flood Management Fee Fund, Project Fund, the Bond Fund, the Reserve Fund, the Issuance Expense Fund and the Rebate Fund. As described in Appendix B - Summary of Certain Provisions of the Bond Ordinance-Flow of Funds - Administration of Income Funds, Gross Income will be required to be distributed to certain of the above funds on certain dates and in certain priorities. Also, as described in Appendix B - Summary of Certain Provisions of the Bond Ordinance-Flow of Funds, deposits to the Bond Fund will be made monthly. Moneys in the Bond Fund and the Reserve Fund will be irrevocably pledged to payment of the 2025 Bonds.

Reserve Fund. The Bond Ordinance establishes the "City of Boulder, Colorado, Stormwater and Flood Management Revenue Bonds, Series 2025, Reserve Fund" (the "Reserve Fund") and funded in an amount equal to the 2025 Minimum Bond. As provided in the Bond Resolution, each holder of any of the Series 2025 Bonds shall, by its purchase of such Series 2025

* Subject to change.

Bond(s) is deemed to have agreed that at such time as (i) the Series 2015 Bonds are no longer Outstanding (through maturity, refunding, redemption, defeasance or otherwise) or (ii) in accordance with Section 11.01 of the Series 2015 Ordinance, the holders of more than 50% of the remaining Outstanding Series 2015 Bonds shall have consented to the following clauses (A) and (B) as proposed amendments to the Series 2015 Ordinance, then: (A) the requirement of establishing or maintaining the 2025 Reserve Fund for the Series 2025 Bonds and the amount of the 2025 Minimum Bond Reserve, if any, for the Series 2025 Bonds shall be at the election of the City, in its sole discretion, and (B) the requirement in Section 7.03(e) of the Bond Resolution to establish and maintain a reserve fund, if any, for additional Parity Bonds and the minimum amount of any such reserve fund, if established, shall be at the election of the City, in its sole discretion. See Appendix B - Summary of Certain Provisions of the Bond Ordinance-Flow of Funds.

Additional Bonds

The Bond Ordinance permits the City to issue additional Parity Bonds and subordinate lien bonds upon the satisfaction of the conditions described below.

Issuance of Parity Bonds**.** The City may issue additional Parity Bonds payable from Net Income derived from the Fee and constituting a lien thereupon on a parity with, but not prior nor superior to, the lien of the 2025 Bonds upon satisfaction of the following provisions of the Bond Ordinance.

(a) *Absence of Default*. The City shall not have defaulted in making any payments required by the Bond Ordinance (described in Appendix B - Summary of Certain provisions of the Bond Ordinance-Flow of Funds).

(b) *Fee Test*. The annual Gross Income for the fiscal year immediately preceding the date of the issuance of such additional Parity Bonds shall have been sufficient to pay the annual Operation and Maintenance Expenses of the Stormwater and Flood Management Utility System for said fiscal year, and, in addition, sufficient to pay an amount representing 125% of the combined average annual principal and interest requirements of the Outstanding Parity Bonds of the City payable from and constituting a lien upon Net Income from the Fee and the additional Parity Bonds proposed to be issued, except as hereinafter otherwise expressly provided; provided that in calculating the Gross Income during the test period, the City may add an amount by which the City reasonably estimates the Gross Income would have been increased during the test period from any increase in rates, fees, and charges for services furnished by or the use of the Stormwater and Flood Management Utility System during or since said test period, the effect of which is to estimate a sum which would have been realized had the increase been in effect during the entire test period..

(c) *Reduction of Annual Requirements*. The respective annual principal and interest requirements (including as a principal requirement the amount of any prior redemption premiums due on any prior redemption date as of which any outstanding bonds have been called or have been ordered to be called for prior redemption) shall be reduced to the extent such requirements are scheduled to be paid each of the respective fiscal years with moneys held in trust or in escrow for that purpose by any Insured Bank located within or without the State and exercising trust powers, including the known minimum yield from any investment in Permitted Investments.

(d) *Consideration of Additional Expenses*. In determining whether or not additional Parity Bonds may be issued as aforesaid, consideration shall be given to any probable increase (but not reduction) in Operation and Maintenance Expenses of the Stormwater and Flood Management Utility System, that will result from the expenditure of the funds proposed to be derived from the issuance and sale of the additional bonds.

(e) *Reserve Fund*. Subject at all times to the provisions of the Bond Ordinance, there shall be established a reserve fund in an amount equal to at least the lesser of 125% of the average annual debt service on such additional Parity Bonds or 10% of the principal amount of such additional Parity Bonds at the time such Parity Bonds are issued. Each holder of any of the Series 2025 Bonds shall, by its purchase of such Series 2025 Bond or Series 2025 Bonds, be deemed to have agreed that at such time as the conditions in the Bond Ordinance are satisfied, the requirement of establishing or maintaining a reserve fund for any additional Parity Bonds and the minimum amount of such reserve fund, if any, shall be at the election of the City, in its sole discretion.

A written certification by the Chief Financial Officer, City Manager or an Independent Accountant that said annual Gross Income is sufficient to pay said amounts, as provided in the Bond Ordinance, shall be conclusively presumed to be accurate in determining the right of the City to authorize, issue, sell and deliver additional Parity Bonds.

Subordinate Bonds Permitted**.** The Bond Ordinance does not prevent the City from issuing additional bonds payable from Net Income derived from the Fee and having a lien thereon subordinate, inferior, and junior to the lien of the 2025 Bonds authorized to be issued by the Bond Ordinance.

Superior Bonds Prohibited**.** The Bond Ordinance does not permit the City to issue additional bonds payable from Net Income and having a lien thereon prior and superior to the 2025 Bonds.

Issuance of Parity Refunding Bonds. No refunding bonds payable from Net Income derived from the Fee shall be issued on a parity with the 2025 Bonds authorized in the Bond Ordinance unless: the lien on Net Income derived from the Fee of the Outstanding Bonds so refunded is on a parity with the lien thereon of the 2025 Bonds; or the refunding bonds are issued in compliance with the requirements set forth under "Issuance of Parity Bonds" above.

THE STORMWATER AND FLOOD MANAGEMENT UTILITY

The City has established and operates the Stormwater and Flood Management Utility pursuant to Article XX of the Constitution of the State of Colorado, the City's Charter and miscellaneous ordinances, including the Enterprise Ordinance and those certified as Chapter 5, Title 11 of the Boulder Revised Code, as amended. Policy direction for the Stormwater and Flood Management Utility is set by the City Council, and the Stormwater and Flood Management Utility is administered by the City Manager. The Utilities Department directs the day-to-day operations of all City utilities, including the Water and Wastewater utilities and the Stormwater and Flood Management Utility. Although the three utilities are each financially independent, all three are managed in an integrated fashion. For purposes of the Bond Ordinance and the security for the 2025 Bonds, the Fee consists only of the revenues derived from the Fee and does not include any revenues derived from the City's water and wastewater utilities. See "Rates and Charges" below.

Administrative Staff

In 1992 the City formed a Water Resources Advisory Board (the "Advisory Board") that advises the city manager, planning board and City Council concerning water resources matters, including environmental assessments, capital improvements and proposed changes to City's raw water, treated water, wastewater, stormwater, and flood control master plans. The Advisory Board also advises the City Manager concerning policy issues on operating programs related to water conservation, water treatment plant residuals, wastewater treatment plant biosolids disposal, and water/stormwater quality. The Advisory Board consists of five members appointed by the City Council.

Various individuals are responsible for implementation of the City Council's actions with respect to the Stormwater and Flood Management Utility, and the day-to-day operation and maintenance of, and collection of revenues from, the Fee. Biographical information with respect to various individuals responsible for the Stormwater and Flood Management Utility is as follows:

Joe Taddeucci, Public Utilities Director. Mr. Taddeucci has been the Director of the Utilities since August 2019. In this role, he manages the City's Water, Wastewater, and Stormwater/Flood Management utilities including a staff of approximately 180 employees. Prior to that he had been the Water Resources Manager since August 2012. In that position, he managed the operations of the City's raw water delivery systems, water rights portfolio and hydroelectric facilities. Prior to that Mr. Taddeucci worked for the City's Utilities Department as a Utilities Engineering Project Manager starting in 2005. Prior to joining the City, Mr. Taddeucci was a water resources Project Director for TCB (now AECOM), a national design and consulting firm. Mr. Taddeucci received his Bachelor of Science in Civil Engineering from Michigan Technological University in Houghton, Michigan in 1991. He is a licensed Professional Engineer in Colorado.

Chris Douville, Public Utilities Deputy Director. Mr. Douville has leadership responsibilities over the operational teams of the City's Facilities, and previously served as the Manager of Wastewater Treatment for 13 years. Prior to joining the City, Mr. Douville was a Senior Engineer and Construction Manager in the Wastewater Practice for Brown and Caldwell Engineers, a national environmental engineering design and consulting firm. He holds a Class "A" Wastewater Treatment Operator Certification in the State of Colorado. Mr. Douville received his

Bachelor of Science in Environmental Resources Engineering from Humboldt State University in Arcata, California in 1995. He received his Master of Science Degree in Civil Engineering from the University of Colorado at Boulder in 1999. Mr. Douville is a licensed Professional Engineer in Colorado and Hawaii.

Stephanie Klingeman, Utilities Principal Budget Analyst. Ms. Klingeman joined the City of Boulder as the Utilities Principal Budget Analyst in September 2023. In her current position she monitors revenues and expenditures for the three utility funds and is expected to coordinate budget development. Prior to this position, Ms. Klingeman was a Manager at NewGen Strategies and Solutions, LLC., a national consulting firm serving the utility industry. Ms. Klingeman has over ten years of experience conducting cost of service, rate design, and financial analysis for utilities across the country. She received a Bachelor of Science degree in Mathematical Economic Analysis in 2010.

Chris Douglass, Utilities Engineering Manager. Mr. Douglass has been the Utilities Engineering Manager since February 2022. In this role, he manages the City's engineering teams responsible for planning and executing capital projects for the water, wastewater, and Stormwater/flood management utilities, including a staff of 14 employees. Prior to this position, Mr. Douglass worked for the East Cherry Creek Valley Water & Sanitation District (ECCV) starting in 2010. Prior to joining ECCV, Mr. Douglass was a Project Manager for Kennedy/Jenks Consultants, a national design and consulting firm. Mr. Douglass received his Bachelor of Science in Civil Engineering from the University of Colorado - Boulder in 1995 and his Master of Science in Civil Engineering from the University of Colorado – Denver in 2003. He is a licensed Professional Engineer in Colorado and a LEED accredited professional.

Brandon Coleman, Civil Engineering Manager, Stormwater/Flood Management Utility. Mr. Coleman has served as the Manager of the Stormwater and Flood Management Engineering Team for the City of Boulder since May 2022. In this capacity, he oversees the City's engineering team responsible for planning and implementing capital projects within the Stormwater and Flood Management Utility, managing a team of five employees. Previously, Mr. Coleman worked as a Utilities Engineering Project Manager in the City's Utilities Department beginning in 2019. Before joining the City, he held the role of Senior Civil Engineer at MWH Global, a national design and consulting firm. Mr. Coleman earned a Bachelor of Science degree in Biological Systems Engineering from Virginia Tech in 2006 and is a licensed Professional Engineer in Colorado.

The Utilities Department is charged with the operation and maintenance of the water, wastewater, and Stormwater/flood management utilities and is comprised of 179 full-time employees. Non-management employees are unionized and are represented by the Boulder Municipal Employees Association ("BMEA"). A new contract extension to December 31, 2024, with BMEA has been ratified and provided. See "THE CITY-Labor Relations." The City considers its employee relations to be satisfactory.

History and Background

The City established the Stormwater and Flood Management Utility in 1973 to focus responsibility and accountability for Stormwater management and flood management programs

and provide a means of funding. Monthly service charges were instituted in 1974 and have provided the primary sources of funding since that time, enabling the City to plan, regulate, maintain and improve the drainage system.

The City is a member in the Mile High Flood District ("MHFD") and currently maintains a rating of 5 under the National Flood Insurance Program Community Rating System.

The City's Stormwater and flood management work program was most recently defined in the Comprehensive Flood and Stormwater ("CFS") Master Plan of 2022. In 2008, the City adopted the multi-hazard mitigation plan ("MHMP") in order to make the City and its residents less vulnerable to future natural hazard events. The plan was prepared pursuant to the requirements of the Disaster Mitigation Act of 2000 in order for the City to be eligible for the Federal Emergency Management Agency's ("FEMA") PreDisaster Mitigation and Hazard Mitigation grant programs.

Existing Properties and Services

The responsibilities of the Stormwater and Flood Management Utility consist of three main components: stormwater conveyance, stormwater drainage quality, and floodplain management. The service area is about 25 square miles and consists of approximately 150 miles of drain sewers and 45 miles of drainage channels. The City's Stormwater and Flood Management Utility provide services to the properties within the City limits. Within the City, there are 16major drainage ways that generally flow from west to east as they converge on Boulder Creek, which is the main tributary flowing through the City. Runoff from within the City is conveyed to these major drainage ways by the City's collector storm drain system and the irrigation canal system.

Stormwater Conveyance. The City maintains, operates and repairs the stormwater collection system. Inspection of the underground pipes is performed by closed circuit television cameras. Routine maintenance of the system includes removal of silt and debris from stormwater inlets and catch basins, cleaning stormwater facilities with high pressure jets, rodders, and repair of damaged stormwater mains. The City is also responsible for flood channel maintenance. This includes repair, maintenance and reconstruction of structures and trickle channels, and removal of silt and debris from detention basins and channels. The objectives of the stormwater conveyance program are to maintain the existing stormwater system to enable the system to carry stormwater to design capacity and to provide maintenance of flood channels to carry flood water to design capacity.

Stormwater Drainage and Quality. The updated Stormwater Master Plan ("SMP") of 2016 is a comprehensive plan for the City's storm sewers and local drainage systems and is intended to guide future decisions regarding stormwater drainage and quality maintenance and improvements. The SMP involved the development of a hydrologic and hydraulic model to evaluate the stormwater collections system's ability to convey the flow associated with the two-year and five-year storm events. The SMP identifies a recommended Capital Improvements Plan ("CIP") list for storm sewer conveyance and water quality improvements throughout the City.

Stormwater discharges from the City of Boulder are currently regulated under a Municipal Separate Storm Sewer System ("MS4") permit issued by the State of Colorado. The stormwater quality program supports compliance with the MS4 permit through three main components which

include public education, water quality monitoring and compliance and enforcement. These services are directly related to the maintenance of public health and protection of the natural environment and maintaining compliance with state and federal regulations. The objectives of the stormwater quality program are to investigate known and suspected sources of contaminants which may enter stormwater, to respond to spills and other incidents involving the discharge of pollutants to stormwater, to evaluate the impact of pollutant discharges, to develop administrative and monitoring programs to reduce the quantity of pollutants discharged, and to mitigate those discharges which do occur. The City's current MS4 permit was issued in 2016. The city anticipates a revised MS4 permit within the next 3 years and will modify programs as necessary to comply with new stormwater permit requirements.

Floodplain Management. The City has focused its flood management program efforts by removing habitable structures from high hazard flood areas. This is accomplished through a combination of major drainageway improvements that narrow the floodplain and/or the acquisition and physical removal of individual structures. The City plans to continue these efforts, balancing property acquisition and constructed flood mitigation projects.

Future Capital Improvements

The City estimates that capital improvements for the Stormwater and Flood Management Utility is anticipated to be as follows for the years 2025 through 2029:

Estimated Future Capital Improvements for the Stormwater and Flood Management Utility

2025	2026	2027	2028	2029
$75,174,835[(1)]	$13,943,387	$5,237,880	$35,116,229	$4,814,904

[(1)] The City currently plans to issue approximately $66,000,000 of Stormwater and Flood Management revenue bonds in 2025 to fund flood plain improvements to South Boulder Creek.

Source: The Stormwater and Flood Management Utility

Planned capital expenditures for the Stormwater and Flood Management Utility over the next five years include: (i) improvements along Gregory Canyon Creek, Upper Goose and Two-mile Canyon (ii) floodplain improvements to South Boulder Creek, (iii) storm sewer rehabilitation, and (iv) preflood property acquisition.

Planned capital expenditures are expected to be financed using revenues from current rates and charges, plant investment and connection fees, future bond proceeds and future rate and fee increases**.**

Customers

The Stormwater and Flood Management Utility served a customer base of 24,095 properties as of December 31, 2023. Of this total, 3,529 accounts were inside a floodplain and 20,566 were outside a floodplain. Over the last five years the number of customer accounts has

increased by an average of 1%. The five largest payers of the City's Stormwater and Flood Management Utility, their respective areas and the revenues received by the City are as follows:

Largest Stormwater and Flood Management Payers as of December 31, 2023

	Customer	Total Area Sq. Ft.	2023 Revenues Generated	Percentage of 2023 Revenues
1.	Educational Institution	29,557,118	$1,262,882	6.8%
2.	Technology Corporation	9,052,533	426,766	2.3
3.	Public Education Provider	13,174,154	392,194	2.1
4.	Government Research Agency	8,249,385	177,369	1.0
5.	Retail and Entertainment District	1,619,930	154,418	0.8
	TOTAL:	61,653,120	$2,413,629	13.0%

Source: The Stormwater and Flood Management Utility

Rates and Charges

Stormwater and flood management fees are reviewed annually by the Utilities Department to ensure that adequate revenues are collected to meet all obligations of the Stormwater and Flood Management Utility. In addition, a financial consultant is hired periodically to review the utilities' rates and fees. Such a review was last conducted in 2017. The primary results from this review were to update the Plant Investment Fees ("PIFs") using updated utility asset valuations and to allow for a stormwater detention facility credit.

The City Council approves rate increases as necessary, as part of the annual budget process. Rates are designed to maintain revenues sufficient to pay operation, maintenance and capital expenses with respect to the Facilities; to meet all reserve requirements and to meet bond covenant requirements such as those contained in the Ordinance. The City's Stormwater and Flood Management Utility's rates and charges are not subject to Public Utilities Commission review.

City utility rates are computed through an analysis of revenues compared to revenue requirements. The projection of revenue requirements is based upon an examination of historical costs incurred in providing utility service and reflects anticipated changes in the future level of costs. Increases in future costs are primarily due to replacements and additions to the system, growth and inflationary conditions. Projections of revenue are based on the estimated future number of customers to be served.

Comparison of projected revenue requirements with projected revenue under existing rates measures the degree of adequacy of the overall level of current charges. Based on this analysis, adjustments to the existing rate schedule are recommended to the City Council.

Monthly Stormwater and Flood Management Rates

Monthly user fees were introduced in 1974 shortly after the Storm Water and Flood Management Utility was established in 1973. These fees were intended to cover operations,

maintenance and replacement costs of the existing system and construction of new storm drainage and flood management facilities.

The Fee is charged pursuant to Section 4-20-45, Boulder Revised Code, as amended and is a fixed monthly charge, assessed to all properties inside the City limits except for those with no impervious areas. Fees for single-family residential properties are based on lot size, while non-residential and multi-family properties are assessed according to impervious surface area, ensuring that properties contributing more runoff share proportionately in System costs. For FY 2025, single-family residential customers will be charged a base rate of $28.46 per month and, for all other customers, the Fee is individually calculated based on a customer's impervious area.

The following table shows how the Stormwater Flood Management base rate has changed over the past 5 years.

History of Stormwater and Flood Management Base Rate

2021	2022	2023	2024	2025
$19.64	$22.00	$24.64	$27.11	$28.46

Source: The Stormwater and Flood Management Utility

The utility billing office carries out payment processing, billing, collections and customer service functions for all three City utilities. The staff supporting this effort includes one billing supervisor, four customer service representatives and 1 technical support person for the billing system. Each property receives one bill per month which includes water, sewer and stormwater/ flood management charges.

Payment for utility services is due within 10 days of the date of the bill. If payment has not been received at the time of the next regular billing, a message noting that a portion of the bill is past due will appear on the bill. When payment is not received within sixty days from the date of the original billing, a Final Notice will be mailed notifying account holder that if the bill is not paid within ten calendar days, the water service may be discontinued. When payment is not received seventy days from the date of the original billing, a door tag is placed at the property and the water is turned off after two days. Historically the City has experienced a less than one percent delinquency rate. If a partial payment is made, the payment is automatically applied to the oldest, outstanding bill, and applied first to miscellaneous fees, then the flood management utility, then the wastewater utility and finally the water utility. If all collection efforts fail, the City's code provides that service may be terminated, and delinquent charges may be certified to the Boulder County Treasurer for collection as part of property taxes.

The following table shows the approximate billing and collection of the monthly Fee in each year from 2019 through 2023.

Billing and Collection of Monthly Fee (unaudited)

Year	Billed	Collected	Percentage
2019	$12,138,655	$12,173,306	-
2020	13,071,091	13,223,145	101%
2021	14,690,907	14,846,202	101
2022	16,568,462	16,529,660	99
2023	18,535,904	18,672,048	100

Source: The Stormwater and Flood Management Utility

Collections typically lag one month behind billings. Accordingly, after a rate increase becomes effective, collections reflecting the rate increase are not received until the following month. Annually, ten to twenty of the Stormwater and Flood Management Utility's 24,095 accounts are certified to the Boulder County, Treasurer for collection as described above.

Plant Investment Fees

Plant Investment Fees ("PIF") are used to recapture initial capital improvement investments in the Stormwater and Flood Management Utility. These are a one-time fee is charged at the time of building permit application submissions to new and existing customers who add or increase the amount of impervious area on their property. The PIF is currently imposed at a rate of $2.71 per square foot of impervious area for FY 2025 and based on the added square footage of impervious area. However, if new stormwater detention facilities are built by the property owner in conformance with existing City standards, the applicable fee is reduced by 50%.

The PIF collections can vary from year to year, depending on the amount of development occurring in the community. The following table summarizes PIF revenues collected from 2019 through 2023 and year-to-date through December 2024.

Plant Investment Fee Collections

Year	Collected
2019	$1,234,181
2020	1,364,035
2021	1,059,455
2022	486,734
2023	2,674,964
2024[(1)]	1,109,809

[(1)] Through December, 2024
Source: The Stormwater and Flood Management Utility

Budgets

The City-wide 2025 budget was developed using a priority-based budgeting approach that scores or rates individual program to community defined results (or goals) to ensure resources are being allocated to areas deemed most important to the community. Annual operating budget proposals are developed by the managers of each functional group within the Utilities Department. The Utility manager responsible for Planning and Project Management formulates the Capital Improvement Program ("CIP") for the upcoming six years. These proposals are reviewed and modified by successive levels of management within the department until a final proposal is approved by the Utilities Director. The department budget proposal is then submitted to the Water Resources Advisory Board and the Planning Board for their review and recommendation. The City Manager considers these recommendations, along with public comment, before submitting the staff recommended budget to City Council, which makes the final determination regarding the budget. While the Utilities Department budget is developed in a cohesive manner (e.g., programs or projects that affect more than one utility fund), the Stormwater and Flood Management Utility's budget is entirely independent, relying upon separate revenues and maintained as a separate accounting entity. See also "CITY DEBT STRUCTURE.

The Stormwater and Flood Management Fund

The accounts of the City are organized and operated on a fund basis. Such funds are segregated for the purpose of accounting for the operation of specific activities or attaining certain objectives. The proprietary fund utilized for the administration and operation of the Utility is the Stormwater and Flood Management Fund, which is an enterprise fund for accounting purposes. All activities necessary to provide stormwater and flood management service are accounted for in the Stormwater and Flood Management Fund. All of the Gross Income is accounted for in the Stormwater and Flood Management Fund.

Historical Financial Information – Stormwater and Flood Management Fund

Set forth in the following table is a five-year comparative statements of revenues, expenses, and changes in net position for the Stormwater and Flood Management Fund. The information in this table has been derived from the City's Annual Comprehensive Financial Report ("ACFR") for 2020 through 2023, and from unaudited year-end financial information for 2024. The information in this table should be read together with the City's audited basic financial statements for the year ended December 31, 2023, and the accompanying notes, which are included as Appendix A hereto. Financial statements for prior years can be obtained from the sources listed in "INTRODUCTION-Additional Information."

Prospective investors should be aware that the 2025 Bonds constitute special, limited obligations of the City payable solely from the Net Income. Inclusion of the City's audited basic financial statements (which contain Stormwater and Flood Control Fund information) is for informational purposes only and does not imply that the 2025 Bonds constitute a general obligation of the City or a lien on any City revenues other than the Net Income.

Historical Revenues, Expenditures and Changes in Net Position - Water Utility Fund (in 000's)

	Year Ended December 31,				
Operating revenues:	2020	2021	2022	2023	2024[(1)]
Charges for services	$13,223	$14,846	$16,530	$18,968	
Operating expenses					
Personnel	2,768	2,586	2,909	3,620	
Non-personnel	3,957	4,733	5,753	7,471	
Depreciation and amortization	1,655	1,671	1,744	1,752	
Total operating expenses	8,380	8,990	10,406	12,843	
Operating income (loss)	4,843	5,856	6,124	6,125	
Nonoperating revenues (expenses)					
Interest and investment earnings	1,173	(180)	(1,174)	2,109	
Leases, rents, and royalties	12	16	16	--	
Intergovernmental	--	(56)	1,671	--	
Interest expense	(544)	(516)	(491)	(456)	
Total nonoperating revenues (expenses)	641	(736)	22	1,653	
Income before capital contributions and transfers	5,484	5,120	6,146	7,778	
Capital contributions	1,604	1,176	507	3,264	
Transfers out	(218)	(728)	(425)	(566)	
Change in net position	6,870	5,568	6,228	10,476	
Total net position, beginning of year	118,430	125,300	130,868	137,096	
Total net position, end of year	$125,300	$130,868	$137,096	$147,572	

(1) Unaudited year-end information only. Subject to changes and adjustments during the audit process.

Source: The City's audited financial statements for the years ended December 31, 2018-2023.

THE CITY

Description

The City of Boulder, Colorado (the "City") is a municipal corporation duly organized and existing as a home rule city under Article XX of the Constitution of the State of Colorado (the "State") and the home rule charter of the City. The City, with an estimated population of approximately 107,000, is in north central Colorado, approximately twenty-five miles northwest of Denver, Colorado. The City encompasses twenty-five square miles and is the county seat of Boulder County.

Governing Body

The City operates under a council-manager form of government whereby all powers of the City are vested in an elected City Council. Under this form of government, the elected City Council sets the policies for the operation of the Boulder government. The administrative responsibility of the city rests with the City Manager who is appointed by the City Council. The City Council consists of nine members, including a mayor and mayor pro tem. In the 2023 November election, the City of Boulder conducted Ranked Choice Voting (RCV) for the first time to elect its Mayor. Starting in 2026, the City of Boulder will transition to even-year elections for all municipal candidate races. In order to transition to even-year elections, in the 2023 election the term length for both the Mayor and City Council members elected will be three years. The present members of the Council, their principal occupations, lengths of service to the Council, and terms of office are as follows:

Name and Office	Principal Occupation	Date Elected	Term Expires
Aaron Brockett, Mayor	Computer programmer	11/2023	11/2026
Mark Wallach, Council member	Retired attorney and developer	11/2021	11/2025
Matt Benjamin, Council member	Astronomer	11/2021	11/2025
Lauren Folkerts, Mayor Pro Tem	Architect	11/2021	11/2025
Tina Marquis, Council member	Marketing	11/2023	11/2026
Nicole Speer, Council member	Scientist	11/2021	11/2025
Taishya Adams, Council member	Educator and environmentalist	11/2023	11/2026
Tara Winer, Council member	Small business owner	11/2023	11/2026
Ryan Schuchard, Council member	Financial consultant	11/2023	11/2026

Administrative Personnel

Various individuals are responsible for implementation of the City Council's actions with respect the day-to-day operation and maintenance of the City. The following paragraphs summarize the background and experience of selected City administrative personnel.

The City Manager manages the day-to-day business of the City government; sets strategic direction to achieve the City's community sustainability goals; implements council determined policies; coordinates community issues between departments; and supervises the work of the departments.

Ms. Rivera-Vandermyde joined the City in 2021 and currently serves as the City Manager. She has been a local government leader since 2013 when she was hired by the City of Minneapolis, Minnesota, as the director of regulatory services. She progressed to the roles of deputy city coordinator and city coordinator within that time. In 2019, she moved to Austin, Texas to take on a deputy city manager role. Rivera-Vandermyde received her Juris Doctor degree from New York University School of Law and her Bachelor of Arts in Political Science and English from Amherst College.

Chris Meschuk, Deputy City Manager. Mr. Meschuk serves as Deputy City Manager. Chris joined the city in 2005 and has served in numerous roles in the City Manager's office and planning department, most recently as Assistant City Manager. As Deputy City Manager, Mr. Meschuk serves as the City Manager Liaison on citywide issues and projects, working in collaboration with City departments to support the City's current and future needs. He holds a master's degree in urban and Regional Planning from the University of Colorado Denver, a Bachelor of Environmental Design from the University of Colorado Boulder and is a certified Planner with the American Institute of Certified Planners. Mr. Meschuk currently volunteers with community service and youth leadership development organizations.

Joel Wagner, Interim Chief Financial Officer. Joel Wagner was appointed Interim Chief Financial Officer in November 2024 after serving as the Finance Deputy Director for two years. Joel joined the City in 2014 to lead the financial and administrative aspects of the city's recovery from the 2013 floods and grew into project management and division management roles in the support of the City's vision of service excellence for an inspired future. Prior to joining the City, Joel served as Director of Finance for the Stewardship Council, a Private Foundation that supported land conservation and environmental education for underserved youth throughout Central and Northern California. Joel holds an undergraduate degree in Finance from the University of Colorado, and a Master of Business Administration from San Francisco State University.

Growth Policy

The City and County have jointly adopted a comprehensive plan, the Boulder Valley Comprehensive Plan (the "BVCP"), that directs new urban development to the City's service area, preserves land outside the urban growth boundary, promotes a compact community, provides for affordable housing, and promotes alternative transportation modes. A mid-term review to the plan began in 2017 and was adopted in 2021. A link to the plan can be found here https://bouldercolorado.gov//media/3350/dowload.

Based on the most recent data, the City, and its service area (Areas I and II) had a population of approximately 107,000 (2020 estimate) and employment of 98,499 (2019 estimate). Approximately 30,000 students attend the University of Colorado. Over the next 25 years, the City is projected to add another 6,500 housing units, 19,000 people and 19,000 jobs. It should be noted that these projections occur only with every major update to the BVCP. The next major update is anticipated to occur in 2025. Since there is little vacant land left in the City's service area, most of the growth will occur through redevelopment.

Public Utilities

Water and sewer services are provided by the City. Gas and electricity for the City are currently provided by Xcel Energy. Rates for gas, electricity and telephone services are provided by private companies regulated by the Public Utilities Commission.

Retirement and Pension Matters

City employees are covered under several retirement plans and other, non-City funded postemployment benefits are available to employees. The matters are discussed in significant detail in Notes V, W and X to the City's audited financial statements, attached to this Official Statement as Appendix A.

Labor Relations

Non-management, non-exempt employees of most City departments are presently represented by the BMEA. As of August 15, 2023, there were 401 standard employees represented by the BMEA. In addition, the City also has economic contracts with the police association (164 employees) and the firefighters' association (118 employees); those contracts have been renewed through the last pay period of 2023. New contracts with each association are pending ratification and approval, extending contracts to December 31, 2024, with BMEA and December 31, 2025 with the firefighters' association and police association. In the opinion of the City's Human Resources Director, the City's relationship with its employees is presently good.

Risk Management

General. The Council acts to protect the City (including the Facilities) against loss and liability by maintaining certain insurance coverages, including property, general liability, automobile, law enforcement, public officials' errors and omissions, crime coverages, cybersecurity, workers' compensation, flood, terrorism, equipment breakdown, art, airport liability, drone, and fiduciary. The City's current coverages expire on April 15, 2025, prior to which point the Risk Management division will work with the City's insurance broker to secure renewals or new lines of coverage. The City's various insurance policies have varying premiums, deductibles, and coverage limits.

In the opinion of the Chief Financial Officer, the City's insurance policies provide adequate insurance protection for the City. See Note J in the audited financial statements attached hereto for a description of the City's 2023 risk management activities.

Cybersecurity. Neither the City nor the Facilities have been the subject of any successful cyberattack that impacted or affected operations or financial recording/reporting functions. Both the City and the Facilities have cybersecurity training programs and mitigation/prevention plans for cyberattacks. Additionally, the City has cybersecurity insurance.

CITY DEBT STRUCTURE

Debt Limitation

The Charter limits City indebtedness to no more than three percent of the total assessed valuation of real property within the City. The City's 2024 assessed valuation is $_____; therefore, the maximum general obligation debt permitted by the Charter is $_____. This limit does not include revenue bonds, even if there is a contingent pledge of the full faith and credit of the City. The City presently has no indebtedness outstanding which applies toward the debt limit.

Outstanding Obligations

Revenue Obligations with General Obligation Pledge**.** Set forth below are certain obligations of the City outstanding secured with a pledge of revenues other than the Net Income and additionally secured by a pledge of the City's full faith and credit.

Outstanding Revenue Bonds Secured by a General Obligation Pledge

Obligation	Principal Outstanding (as of 12/31/2023)
Open Space Acquisition Bonds, Series 2014	$5,570,000
Waste Reduction Refunding Note, Series 2020	1,840,000
Total	$7,410,000

Other Revenue Obligations. The City has the authority to issue revenue obligations payable from the net revenues derived from the operation of municipality-owned utilities or other income producing projects or from the revenue received from certain taxes other than ad valorem property taxes. Such obligations do not constitute an indebtedness of the City as defined by the City Charter; however, except for refinancing bonded debt at a lower interest rate, TABOR requires that all multiple fiscal year obligations of the City have voter approval, unless the City qualifies the issuing utility as an enterprise, which would exempt the issuance of such debt from the provisions of TABOR.

The following table sets forth the City's revenue obligations, including those secured by the Net Income (other than conduit issuances), which are outstanding as of December 1, 2024.

Other Outstanding Revenue Obligations

Bond Issue	Principal Outstanding (as of 12/01/23)
Water and Sewer Revenue Refunding Bonds, Series 2012	$ 2,945,000
Water and Sewer Revenue Bonds, Series 2015	6,215,000
Stormwater and Flood Management Revenue Bonds, Series 2015	13,415,000
Water and Sewer Revenue Bonds, Series 2016	21,055,000
Water and Sewer Revenue Bonds, Series 2018	29,470,000
Water and Sewer Revenue Refunding Note, Series 2020	3,155,000
Water and Sewer Revenue Bonds, Series 2022	39,325,000
Water and Sewer Revenue Bonds, Series 2024	83,000,000
Total	$198,580,000

General Fund Bonds. In 2020, the City issued its Taxable Pension Obligation Refunding Note, Series 2020, which is are presently outstanding in the aggregate principal amount of $3,370,000 and in 2021 the City issued its General Fund Refunding Note, Taxable Converting to Tax-Exempt, Series 2021, which is presently outstanding in the aggregate principal amount of $20,480,000. These bonds are not general obligations of the City but are secured by all legally available funds and revenues of the City's General Fund.

Special Assessment Bonds. The City has the power to create special improvement districts and to issue special assessment bonds payable from assessments against benefited properties within the district. The City does not have any outstanding special improvement districts.

Leases and Long-Term Contracts. The Council has the authority to enter installment or lease option contracts, subject to annual appropriation, for the purchase of property or capital equipment without prior electoral approval as described in "LEGAL MATTERS-Certain Constitutional Limitations." The term of any such contract may not extend over a period greater than the estimated useful life of the property or equipment. As of December 1, 2024, the City has outstanding approximately $5,359,000 of lease purchase revenue notes, which are subject to annual appropriation and payable from revenues guaranteed by the City's open space sales and use tax.

The City has also entered into a lease purchase agreement with the Boulder Municipal Property Authority dated as of November 1, 2015 (the "2015 Lease") with respect to several buildings and properties used by the City. In connection with the 2015 Lease, Taxable Certificates of Participation, Series 2015, were issued and are presently outstanding in the aggregate principal amount of $26,825,000. The City's obligation to pay rent under the 2015 Lease is subject to annual appropriation and may be terminated by the City during any fiscal year for all subsequent fiscal years. The City's annual rental payments under the 2015 Lease total approximately $2.8 million per year through 2036.

In addition, the City has entered into a lease purchase agreement with the Boulder Municipal Property Authority dated as of September 1, 2019 (the "2019 Lease") with respect to several buildings and properties used by the City. In connection with the 2019 Lease, Taxable

Certificates of Participation, Series 2019, were issued and are presently outstanding in the aggregate principal amount of $15,915,000. The City's obligation to pay rent under the 2019 Lease is subject to annual appropriation and may be terminated by the City during any fiscal year for all subsequent fiscal years. The City's annual rental payments under the 2019 Lease total approximately $1.3 million per year through 2039.

Mill Levy Limitations and Tax Rates

The Charter restricts the property tax levy to 13.0 mills on a dollar of assessed valuation. This limitation does not include special assessments for local improvements, payment of interest or principal on bonded indebtedness or the charter mill levy for health and hospital purposes. Article X, Section 20 of the Colorado Constitution, however, imposes limitations which are substantially more restrictive than those of the Charter. See "LEGAL MATTERS-Certain Constitutional Limitations."

The current total City mill levy is 11.648. The general operating mil levy is 8.748; earmarked funds from the property tax include 2.000 mills for public safety and 0.900 mills for the Permanent Park and Recreation Fund.

ECONOMIC AND DEMOGRAPHIC INFORMATION

This portion of the Official Statement contains general information concerning historic economic and demographic conditions in and surrounding the City. It is intended only to provide prospective investors with general information regarding the City's community. The information was obtained from the sources indicated and is limited to the time periods indicated. The information is historic in nature; it is not possible to predict whether the trends shown will continue in the future. The City makes no representation as to the accuracy or completeness of data obtained from parties other than the City.

Population

The following table sets forth the populations of the City, Boulder County and the State of Colorado for the time periods shown. Between 2010 and 2020, the population of the City increased 11.2% and the population of Boulder County increased 12.3%. The State's population increased 14.8% during the same time period.

	Population					
Year	City of Boulder	Percent Change	Boulder County	Percent Change	Colorado	Percent Change
1980	76,685	--	189,625	--	2,889,735	--
1990	83,312	8.6%	225,339	18.8%	3,294,394	14.0%
2000[(1)]	94,673	13.6	269,814	19.7	4,301,261	30.6
2010	97,385	2.9	294,567	9.2	5,029,196	16.9
2020	108,250	11.2	330,758	12.3	5,773,714	14.8
2021	104,704	--	327,096	--	5,811,121	--
2022	107,037	2.2%	327,372	0.1%	5,840,234	0.5%
2023	106,852	(0.2)	326,663	(0.2)	5,876,300	0.6

(1) The Colorado State Demography Office adjusted the 2000 figure for Boulder County to reflect the 2001 creation of the City and County of Broomfield.

Sources: United States Department of Commerce, Bureau of the Census (1980-2020) and Colorado State Demography Office (2021-2023 estimates, which are subject to periodic revisions, and 2000 figure for Boulder County).

Income

The following table sets forth annual per capita personal income levels for Boulder County, the State and the United States. Per capita levels in Boulder County have consistently exceeded State and national levels during the period shown.

Annual Per Capita Personal Income

Year[(1)]	Boulder County	Colorado	United States
2019	$78,641	$61,276	$55,566
2020	81,963	64,693	59,123
2021	92,317	71,706	64,460
2022	95,454	76,674	66,244
2023	100,242	80,068	69,810

(1) Figures for Boulder County updated November 14, 2024. State and national figures updated September 27, 2024. All figures are subject to periodic revisions.

Source: United States Department of Commerce, Bureau of Economic Analysis.

Employment

The following table presents information on employment within Boulder County, the State and the United States for the period indicated.

Labor Force and Percent Unemployed

	Boulder County [(1)]		Colorado [(1)]		United States
Year	Labor Force	Percent Unemployed	Labor Force	Percent Unemployed	Percent Unemployed
2019	194,132	2.3%	3,104,684	2.7%	3.7%
2020	190,477	5.7	3,082,228	6.8	8.1
2021	197,273	4.4	3,149,673	5.5	5.3
2022	200,348	2.6	3,186,932	3.1	3.6
2023	202,678	2.8	3,230,482	3.2	3.6
Month of October					
2023	204,743	2.9%	3,244,344	3.2%	3.8%
2024	206,057	4.1	3,272,611	4.4	4.1

(1) Figures for Boulder County and the State are not seasonally adjusted.

Sources: State of Colorado, Department of Labor and Employment, Labor Market Information, Labor Force Data and United States Department of Labor, Bureau of Labor Statistics.

The following table sets forth the number of individuals employed within selected Boulder County industries that are covered by unemployment insurance. In 2023, the largest employment sector in Boulder County was professional and technical services (comprising approximately 18.3% of the county's work force), followed, in order, by educational services, health care and social assistance, manufacturing, and accommodation and food services. For the twelve-month period ended December 31, 2023, total average employment in Boulder County increased 0.9% as compared to the same period ending December 31, 2022, and the average weekly wage increased by approximately 4.1% during the same period.

Average Number of Employees within Selected Industries - Boulder County

Industry	2019	2020	2021	2022	2023	2024[2]
Accommodation and Food Services	17,956	13,441	15,391	17,074	17,250	15,793
Administrative and Waste Services	6,416	6,198	6,250	6,122	5,697	5,330
Agriculture, Forestry, Fishing, Hunting	569	611	650	694	634	551
Arts, Entertainment and Recreation	3,475	2,605	2,837	3,303	3,619	3,559
Construction	5,837	5,447	5,457	5,581	5,744	5,377
Educational Services	23,172	22,172	21,997	22,937	23,494	23,910
Finance and Insurance	4,118	4,108	4,158	4,297	4,123	3,965
Government	8,447	8,323	7,997	8,036	8,332	8,230
Health Care and Social Assistance	23,357	22,056	22,702	22,429	23,248	23,319
Information	8,603	8,527	8,977	9,391	8,580	8,830
Management of Companies/Enterprises	1,525	1,614	1,811	1,873	1,899	1,912
Manufacturing	19,804	20,056	21,076	21,949	21,230	20,855
Mining	177	172	226	206	195	204
Non-classifiable	17	20	18	20	72	10
Other Services	5,415	4,862	5,240	5,454	5,649	5,734
Professional and Technical Services	30,085	30,439	32,063	34,751	35,715	34,723
Real Estate, Rental and Leasing	2,782	2,700	2,843	2,766	2,741	2,496
Retail Trade	17,493	16,565	17,181	16,700	16,824	16,524
Transportation and Warehousing	2,177	2,291	2,343	2,185	2,197	2,208
Utilities	307	311	330	392	498	531
Wholesale Trade	6,730	6,481	6,778	7,223	7,335	7,698
Total[1]	188,461	178,999	186,322	193,381	195,074	191,759

(1) Figures may not equal totals when added due to the rounding of averages or the inclusion in the total figure of employees that were not disclosed in individual classifications.
(2) Figures are averaged through the first quarter of 2024.

Source: State of Colorado, Department of Labor and Employment, Labor Market Information, Quarterly Census of Employment and Wages (QCEW).

Major Employers

The following table sets forth a selection of the largest public and private employers in Boulder County. No independent investigation of the stability or financial condition of the employers listed hereafter has been conducted; therefore, no representation can be made that these employers will continue to maintain their status as major employers in the area.

Major Employers in Boulder County

Name of Employer	Product or Service	Estimated Number of Employees [1]
University of Colorado at Boulder	Higher education	10,489[2]
Ball Aerospace & Technologies Corporation	Aerospace, technologies, and services	5,200
St. Vrain Valley School District RE-1J	K-12 education	3,831[3]
Boulder Valley School District No. Re-2	K-12 education	3,786[4]
Boulder Community Health	Healthcare	2,300
Boulder County	Government	2,075
Google	Internet services and products	1,500
Good Samaritan Medical Center	Healthcare	1,200
University Corp. for Atmos. Research	Research and training	1,200
Longmont Community Hospital	Healthcare	1,000

(1) December 2023 figures unless otherwise noted.
(2) Figure as of October 17, 2024. Figure does not include student employees.
(3) Full-time equivalent employees as presented in the employer's Annual Comprehensive Financial Report for the fiscal year ended June 30, 2024.
(4) Full-time equivalent employees as presented in the employer's Annual Comprehensive Financial Report for the fiscal year ended June 30, 2023.

Sources: Colorado Department of Labor and Employment as presented in the Boulder County *Annual Comprehensive Financial Report* for the year ended December 31, 2023; and individual employers.

Foreclosure Activity

The following table sets forth the number of foreclosures filed in Boulder County during the time period shown. Such information only represents the number of foreclosures filed and does not consider foreclosures that were filed and subsequently redeemed or withdrawn.

History of Foreclosures – Boulder County

Year	Number of Foreclosures	Percent Change
2019	146	--
2020	48	(67.1)%
2021	38	(20.8)
2022	127	234.2
2023	116	(8.7)
2024[1]	109	--

(1) Figures are for foreclosures filed from January 1 through November 30, 2024.

Sources: Colorado Division of Housing (2019 to 2020 figures) and Boulder County Public Trustee's Office (2021 to 2024 figures).

TAX MATTERS

Generally

In the opinion of Kutak Rock LLP, Bond Counsel, under existing laws, regulations, rulings and judicial decisions, interest on the 2025 Bonds is excludable from gross income for federal income tax purposes and is not a specific preference item for purposes of the federal alternative minimum tax imposed on individuals. The opinions described in the preceding sentence assume the accuracy of certain representations and compliance by the City with covenants designed to satisfy the requirements of the Internal Revenue Code of 1986, as amended, that must be met subsequent to the issuance of the 2025 Bonds. Failure to comply with such requirements could cause interest on the 2025 Bonds to be included in gross income for federal income tax purposes retroactive to the date of issuance of the 2025 Bonds. The City has covenanted to comply with such requirements. Bond Counsel has expressed no opinion regarding other federal tax consequences arising with respect to the 2025 Bonds. Interest on the 2025 Bonds may affect the federal alternative minimum tax imposed on certain corporations.

Bond Counsel is also of the opinion that, under existing State of Colorado statutes, to the extent interest on the 2025 Bonds is excludable from gross income for federal income tax purposes, such interest on the 2025 Bonds is excludable from gross income for Colorado income tax purposes and from the calculation of Colorado alternative minimum taxable income.

The accrual or receipt of interest on the 2025 Bonds may otherwise affect the federal income tax liability of the owners of the 2025 Bonds. The extent of these other tax consequences will depend upon such owner's particular tax status or other items of income or deduction. Bond Counsel has expressed no opinion regarding any such consequences. Purchasers of the 2025 Bonds, particularly purchasers that are corporations (including S corporations, foreign corporations operating branches in the United States and certain corporations subject to the alternative minimum tax imposed on corporations), property or casualty insurance companies, banks, thrifts or other financial institutions, certain recipients of social security or railroad retirement benefits, taxpayers entitled to claim the earned income credit, taxpayers entitled to claim the refundable credit in Section 36B of the Code for coverage under a qualified health plan, and taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry tax exempt obligations, should consult their tax advisors as to the tax consequences of purchasing or owning the 2025 Bonds.

A copy of the proposed form of opinion of Bond Counsel with respect to the 2025 Bonds is attached as Appendix E to this Official Statement.

Original Issue Premium

The 2025 Bonds that have an original yield below their respective interest rates, as shown on the inside cover of this Official Statement (collectively, the "Premium Obligations"), are being sold at a premium. An amount equal to the excess of the issue price of a Premium Obligation over its stated redemption price at maturity constitutes original issue premium on such Premium Obligation. A purchaser of a Premium Obligation must amortize any premium over the term of such Premium Obligation using constant yield principles based upon the purchaser's yield to

maturity (or, in the case of Premium Obligations callable prior to their maturity, by amortizing the premium to the call date, based upon the purchaser's yield to the call date and giving effect to any call premium). As premium is amortized, the amount of premium amortized in a payment period offsets a corresponding amount of the interest allocable to the corresponding payment period and the purchaser's basis in such Premium Obligation is reduced by a corresponding amount resulting in the gain (or decrease in the loss) to be recognized for federal income tax purposes upon a sale or disposition of such Premium Obligation prior to its maturity. Even though the purchaser's basis may be reduced, no federal income tax deduction is allowed. Purchasers of the Premium Obligations should consult with their tax advisors with respect to the determination and treatment of premium for federal income tax purposes and with respect to the state and local tax consequences of owning a Premium Obligation.

Original Issue Discount

The 2025 Bonds that have an original yield above their respective interest rates, as shown on the inside cover of this Official Statement (collectively, the "Discounted Tax-Exempt Obligations"), are being sold at an original issue discount. The difference between the initial public offering prices of the Discounted Tax-Exempt Obligations and their stated amounts to be paid at maturity, (excluding "qualified stated interest" within the meaning of Section 1.1273-1 of the Regulations) constitutes original issue discount treated in the same manner for federal income tax purposes as interest, as described above.

The amount of original issue discount which is treated as having accrued with respect to such Discounted Tax -Exempt Obligation is added to the cost basis of the owner in determining, for federal income tax purposes, gain or loss upon disposition of a Discounted Tax -Exempt Obligation (including its sale, redemption or payment at maturity). Amounts received upon disposition of a Discounted Tax-Exempt Obligation which are attributable to accrued original issue discount will be treated as tax exempt interest, rather than as taxable gain, for federal income tax purposes.

Original issue discount is treated as compounding semiannually, at a rate determined by reference to the yield to maturity of each individual Discounted Tax-Exempt Obligation, on days which are determined by reference to the maturity date of such Discounted Tax-Exempt Obligation. The amount treated as original issue discount on a Discounted Tax -Exempt Obligation for a particular semiannual accrual period is equal to (a) the product of (i) the yield to maturity for such Discounted Tax -Exempt Obligation (determined by compounding at the close of each accrual period); and (ii) the amount which would have been the tax basis of such Discounted Tax -Exempt Obligation at the beginning of the particular accrual period if held by the original purchaser; and less (b) the amount of any interest payable for such Discounted Tax -Exempt Obligation during the accrual period. The tax basis is determined by adding to the initial public offering price on such Discounted Tax-Exempt Obligation the sum of the amounts which have been treated as original issue discount for such purposes during all prior periods. If a Discounted Tax-Exempt Obligation is sold between semiannual compounding dates, original issue discount which would have been accrued for that semiannual compounding period for federal income tax purposes is to be apportioned in equal amounts among the days in such compounding period.

Owners of Discounted Tax-Exempt Obligations should consult their tax advisors with respect to the determination and treatment of original issue discount accrued as of any date and with respect to the state and local consequences of owning a Discounted Tax-Exempt Obligation. Subsequent purchasers of Discounted Tax-Exempt Obligations that purchase such bonds for a price that is higher or lower than the "adjusted issue price" of the bonds at the time of purchase should consult their tax advisors as to the effect on the accrual of original issue discount.

Backup Withholding

An owner of a 2025 Bond may be subject to backup withholding at the applicable rate determined by statute with respect to interest paid with respect to the 2025 Bonds if such owner fails to provide to any person required to collect such information pursuant to Section 6049 of the Code with such owner's taxpayer identification number, furnishes an incorrect taxpayer identification number, fails to report interest, dividends or other "reportable payments" (as defined in the Code) properly, or, under certain circumstances, fails to provide such persons with a certified statement, under penalty of perjury, that such owner is not subject to backup withholding.

Changes in Federal and State Tax Law

From time to time, there are legislative proposals in the Congress and in the states that, if enacted, could alter or amend the federal and state tax matters referred to above under this heading "TAX MATTERS" or adversely affect the market value of the 2025 Bonds. It cannot be predicted whether or in what form any such proposal might be enacted or whether if enacted, it would apply to bonds issued prior to enactment. In addition, regulatory actions are from time to time announced or proposed and litigation is threatened or commenced which, if implemented or concluded in a particular manner, could adversely affect the market value of the 2025 Bonds. It cannot be predicted whether any such regulatory action will be implemented, how any particular litigation or judicial action will be resolved, or whether the 2025 Bonds of the market value thereof would be impacted thereby. Purchasers of the 2025 Bonds should consult their tax advisor regarding any pending or proposed tax legislation, regulatory initiatives, or litigation. The opinions expressed by Bond Counsel are based upon existing legislation and regulations as interpreted by relevant judicial and regulatory authorities as of the date of issuance and delivery of the 2025 Bonds, and Bond Counsel has expressed no opinion as of any date subsequent thereto or with respect to any pending legislation, regulatory initiatives or litigation.

PROSPECTIVE PURCHASES OF THE 2025 BONDS ARE ADVISED TO CONSULT THEIR OWN TAX ADVISORS PRIOR TO ANY PURCHASE OF THE 2025 BONDS AS TO THE IMPACT OF THE CODE UPON THEIR ACQUISITION, HOLDING OR DISPOSITION OF THE 2025 BONDS.

LEGAL MATTERS

Litigation

The City has been advised that to the best knowledge of the City Attorney as of the date of this Official Statement, there are no suits or claims currently pending or threatened against the City that will materially and adversely affect the financial condition or operations of the City, the City's power to issue and deliver the 2025 Bonds; the proceedings and authority under which the 2025

Bonds are issued, or the Net Income is charged or collected, or affecting the validity of the 2025 Bonds or the pledge of said Net Income to the repayment of the 2025 Bonds thereunder; and neither the corporate existence nor the boundaries of the City or the title of its present officers to their respective offices is being contested.

Governmental Immunity

The Colorado Governmental Immunity Act, Title 24, Article 10, C.R.S. (the "Immunity Act"), provides that, with certain specified exceptions, sovereign immunity acts as a bar to any action against a public entity, such as the City, for injuries which lie in tort or could lie in tort.

The Immunity Act provides that sovereign immunity is waived by a public entity for injuries occurring as a result of certain specified actions or conditions, including: the operation of a non-emergency motor vehicle (including a light rail car), owned or leased by the public entity; the operation of any public hospital, correctional facility or jail; a dangerous condition of any public building; certain dangerous conditions of a public highway, road or street; failure to perform an education employment required background check; and the operation and maintenance of any public water facility, gas facility, sanitation facility, electrical facility, power facility or swimming facility by such public entity. Financial immunity is also waived for serious bodily injury or death resulting from an incident of school violence (murder, first degree assault or felony sexual assault). In such instances, the public entity may be liable for injuries arising from an act or omission of the public entity, or an act or omission of its public employees, which occur during the performance of their duties and within the scope of their employment.

The maximum amounts that may be recovered under the Immunity Act for injuries occurring on or after January 1, 2022, whether from one or more public entities and public employees, are as follows: (a) for any injury to one person in any single occurrence, the sum of $424,000; (b) for an injury to two or more persons in any single occurrence, the sum of $1,195,000; except in such instance, no person may recover in excess of $424,000. Those amounts increase every four years pursuant to a formula based on the Denver-Aurora-Greeley Consumer Price Index. The City may increase any maximum amount that may be recovered from the City for certain types of injuries. However, the City may not be held liable either directly or by indemnification for punitive or exemplary damages unless the City voluntarily pays such damages in accordance with State law. The City has not acted to increase the damage limitations in the Immunity Act.

In 2021, the Colorado Legislature passed Senate Bill 21-088 ("SB 88") which created a new cause of action and added a waiver of immunity for certain sexual misconduct claims that occurred on or after January 1, 1960, but before January 1, 2022. Any claims brought under SB 88 must be commenced before January 1, 2025. Claimants are limited to a maximum recovery of $500,000 under the new cause of action created by SB 88 unless a court finds certain aggravating factors by clear and convincing evidence, in which case the total amount awarded to a claimant cannot exceed $1,000,000 dollars. The City's historical insurance coverage for sexual misconduct claims may not be sufficient to cover claims brought pursuant to SB 88. To date, the City has not received any notices or demands under SB 88 and the City has plans in place to address any such claims in the event they are alleged in the future.

The City may be subject to civil liability and damages including punitive or exemplary damages under federal laws, and it may not be able to claim sovereign immunity for actions founded upon federal laws. Examples of such civil liability include suits filed pursuant to Section 1983 of Title 42 of the United States Code, alleging the deprivation of federal constitutional or statutory rights of an individual. In addition, the City may be enjoined from engaging in anti-competitive practices which violate federal and State antitrust laws. However, the Immunity Act provides that it applies to any State court having jurisdiction over any claim brought pursuant to any federal law, if such action lies in tort or could lie in tort.

Approval of Certain Legal Proceedings

In connection with the 2025 Bonds, Kutak Rock LLP, as Bond Counsel, will render its opinion as to the validity of the 2025 Bonds and the treatment of interest thereon for purposes of federal and State income taxation. See Appendix E - Form of Bond Counsel Opinion. Butler Snow LLP is acting as special counsel to the City in connection with this Official Statement. Certain matters will be passed upon for the City by the City Attorney.

Certain Constitutional Limitations

General. At the general election on November 3, 1992, the voters of Colorado approved TABOR. In general, TABOR restricts the ability of the State and local governments to increase revenues and spending, to impose taxes, and to issue debt and certain other types of obligations without voter approval. TABOR generally applies to the State and all local governments, including the City ("local governments"), but does not apply to "enterprises," defined as government-owned businesses authorized to issue revenue bonds and receiving under 10% of annual revenue in grants from all state and local governments combined.

Some provisions of TABOR are unclear and will require further judicial interpretation. No representation can be made as to the overall impact of TABOR on the future activities of the City, including its ability to generate sufficient revenues for its general operations, to undertake additional programs or to engage in any subsequent financing activities.

Voter Approval Requirements and Limitations on Taxes, Spending, Revenues, and Borrowing. TABOR requires voter approval in advance for: (a) any new tax, tax rate increase, mill levy above that for the prior year, valuation for assessment ratio increase, extension of an expiring tax, or a tax policy change causing a net tax revenue gain; (b) any increase in a local government's spending from one year to the next in excess of the limitations described below; (c) any increase in the real property tax revenues of a local government from one year to the next in excess of the limitations described below; or (d) creation of any multiple-fiscal year direct or indirect debt or other financial obligation whatsoever, subject to certain exceptions such as the refinancing of obligations at a lower interest rate. The City's Water System and Sewer System currently qualify as "enterprises" under TABOR, and therefore the 2025 Bonds may be issued without an election.

TABOR limits increases in government spending and property tax revenues to, generally, the rate of inflation and a local growth factor which is based upon, for school districts, the percentage change in enrollment from year to year, and for non-school districts, the actual value

of new construction in the local government's jurisdiction. Unless voter approval is received as described above, revenues collected in excess of these permitted spending limitations must be rebated. Debt service, however, including the debt service on the 2025 Bonds, can be paid without regard to any spending limits, assuming revenues are available to do so.

At the November 2, 1993, election, City voters authorized the City to collect, retain, and expend without regard to the revenue and limitations imposed by TABOR, the full proceeds of the City's sales and use tax, admission tax, accommodations tax, and non-federal grants. At the November 8, 1994, election, City voters approved an increase in the City's trash tax and allowed the City to collect and spend the full proceeds of such taxes and any interest thereon.

At the November 5, 1996 election, City voters authorized the City to remove TABOR restrictions on all revenues (except property tax) and expenditures of the City, and authorized the collection, retention and expenditures of all revenues of the City free from current revenue and expenditure limitations and from any limitations that may be enacted in the future without the amendment of the City's Charter by the electors of the City.

In addition, at the November 4, 2008, election, City voters authorized the City to remove TABOR restrictions on property tax revenues collected above the limits imposed by TABOR. The election specified that retention above TABOR limits will not rise more than 0.5 mills annually for tax collection years 2009 and beyond up to the maximum allowable level of property taxes and that any tax monies that are collected above those that the City may retain will be credited to property owners as an offset against the subsequent year's taxes.

Emergency Reserve Funds. TABOR also requires local governments to establish emergency reserve funds. The reserve fund must consist of at least 3% of fiscal year spending. TABOR allows local governments to impose emergency taxes (other than property taxes) if certain conditions are met. Local governments are not allowed to use emergency reserves or taxes to compensate for economic conditions, revenue shortfalls, or local government salary or benefit increases. The City has set aside emergency reserves as required by TABOR.

Other Limitations. TABOR also prohibits new or increased real property transfer tax rates and local government income taxes. TABOR allows local governments to enact exemptions and credits to reduce or end business personal property taxes; provided, however, the local governments' spending is reduced by the amount saved by such action. With the exception of K-12 public education and federal programs, TABOR also allows local governments (subject to certain notice and phase-out requirements) to reduce or end subsidies to any program delegated for administration by the general assembly; provided, however, the local governments' spending is reduced by the amount saved by such action.

Enterprise Status. The City has determined that the Facilities are currently enterprises for purposes of TABOR. Voter approval for the issuance of the 2025 Bonds is not required, and the remaining terms of TABOR do not apply to the operation of the Facilities. However, TABOR contemplates that enterprise status can change over time.

If the Facilities ever ceases to be enterprises, the Facilities' spending and revenues would become subject to the limitations of TABOR, unless the City obtains voter approval to be exempted

from such limitations. Assuming such voter approval is not obtained, the applicability of the spending and revenue limitations upon the Facilities could restrict the City's ability to spend its revenues in excess of such limitations absent voter approval. The effect of any future application of the limitations of TABOR would depend on the City's overall spending and revenues at that time. Even if the Facilities cease to have enterprise status, the rate covenant and the lien on Net Income provided for in the Bond Ordinance will continue to secure the payment of debt service on the 2025 Bonds.

Police Power

The obligations of the City are subject to the reasonable exercise in the future by the State and its governmental bodies of the police power inherent in the sovereignty of the State and to the exercise by the United States of America of the powers delegated to it by the Federal Constitution, including bankruptcy.

INDEPENDENT AUDITORS

The basic financial statements of the City as of December 31, 2023, and for the year then ended, included in this Official Statement as Appendix A, have been audited by CliftonLarsonAllen LLP, Broomfield, Colorado, as stated in the report appearing therein.

The City has not requested and will not obtain a consent letter from its auditor for the inclusion of the audit report in this Official Statement. CliftonLarsonAllen LLP, the City's independent auditor, has not been engaged to perform, and has not performed, since the date of its report included herein any procedures on the financial statements addressed in that report. CliftonLarsonAllen LLP, also has not performed any procedures relating to this Official Statement.

MUNICIPAL ADVISOR

Hilltop Securities Inc. is acting as the Municipal Advisor to the City in connection with the issuance of the 2025 Bonds. The Municipal Advisor has assisted in the preparation of this Official Statement and in other matters relating to the planning, structuring, rating, and issuance of the 2025 Bonds. In its role of Municipal Advisor to the City, the Municipal Advisor has not undertaken either to make an independent verification of or to assume responsibility for the accuracy or completeness of the information contained in the Official Statement and the appendices hereto.

RATING

S&P Global Ratings, a division of Standard & Poor's Financial Services LLC ("S&P"), has assigned the 2025 Bonds the rating shown on the cover page of this Official Statement. An explanation of the significance of any S&P ratings may be obtained from S&P at 55 Water Street, New York, New York 10041.

Such rating reflects only the views of the rating agency, and there is no assurance that the rating will be obtained or will continue for any given period of time or that the rating will not be revised downward or withdrawn entirely by the rating agency if, in its judgment, circumstances so warrant. Any such downward revision or withdrawal of such rating may have an adverse effect on the market price of the 2025 Bonds. Other than the City's obligations under the Disclosure

Undertaking, neither the City nor the Municipal Advisor has undertaken any responsibility to bring to the attention of the owners of the 2025 Bonds any proposed change in or withdrawal of such rating once received or to oppose any such proposed revision.

PUBLIC SALE

The City sold the 2025 Bonds at public sale to _____ at a purchase price equal to $_____ (equal to the par amount of the 2025 Bonds, plus net original issue premium of $_____, and less underwriting discount of $_____).

OFFICIAL STATEMENT CERTIFICATION

The City Council have authorized the preparation of this Official Statement and its distribution. This Official Statement is hereby duly approved by the City Council as of the date on the cover page hereof.

CITY OF BOULDER, COLORADO

By: */s/ Aaron Brockett*
Mayor

APPENDIX A

AUDITED BASIC FINANCIAL STATEMENTS OF THE CITY AS OF AND FOR THE FISCAL YEAR ENDED DECEMBER 31, 2023

NOTE: The audited basic financial statements of the City for the year ended December 31, 2023, have been excerpted from the City's Annual Comprehensive Financial Report for that year. Certain statistical tables and other information were purposely excluded from this Appendix A. Such statements provide supporting details and are not necessary for a fair presentation of the general-purpose financial statement of the City.

APPENDIX B

SUMMARY OF CERTAIN PROVISIONS OF THE BOND ORDINANCE

(to come)

APPENDIX C

BOOK-ENTRY ONLY SYSTEM

DTC will act as securities depository for the 2025 Bonds. The 2025 Bonds will be issued as fully registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully registered certificate will be issued for each maturity of the 2025 Bonds, in the aggregate principal amount of such maturity, and will be deposited with DTC.

DTC, the world's largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). DTC has a Standard & Poor's rating of AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at www.dtcc.com.

Purchases of 2025 Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the 2025 Bonds on DTC's records. The ownership interest of each actual purchaser of each 2025 Bond ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the 2025 Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in 2025 Bonds, except in the event that use of the book-entry system for the 2025 Bonds is discontinued.

To facilitate subsequent transfers, all 2025 Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of 2025 Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the 2025 Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such 2025 Bonds

are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of 2025 Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the 2025 Bonds, such as redemptions, tenders, defaults, and proposed amendments to the 2025 Bond documents. For example, Beneficial Owners of 2025 Bonds may wish to ascertain that the nominee holding the 2025 Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the Registrar and request that copies of notices be provided directly to them.

Redemption notices shall be sent to DTC. If less than all of the 2025 Bonds are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to the 2025 Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the City as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts 2025 Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal, interest, and redemption proceeds on the 2025 Bonds will be made to Cede& Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the City or the Paying Agent on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Paying Agent or the City, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal, interest or redemption proceeds to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the City or the Paying Agent, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as depository with respect to the 2025 Bonds at any time by giving reasonable notice to the City or the Registrar and Paying Agent. Under such circumstances, in the event that a successor depository is not obtained, 2025 Bond certificates are required to be printed and delivered.

The City may decide to discontinue use of the Facilities of book-entry-only transfers through DTC (or a successor securities depository). In that event, 2025 Bond certificates will be printed and delivered to DTC.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that the City believes to be reliable, but the City takes no responsibility for the accuracy thereof.

APPENDIX D

FORM OF CONTINUING DISCLOSURE CERTIFICATE

CONTINUING DISCLOSURE CERTIFICATE

$_____
CITY OF BOULDER, COLORADO
STORMWATER AND FLOOD MANAGEMENT REVENUE BONDS
SERIES 2025

This Continuing Disclosure Certificate (the "Disclosure Certificate") is executed and delivered by the City of Boulder, Colorado (the "City") (acting through its Water Utility Enterprise and its Wastewater Utility Enterprise) in connection with the issuance of the Stormwater and Flood Management Revenue Bonds, Series 2025, dated as _____, 2025, in the aggregate principal amount of $_____ (the "2025 Bonds"). The 2025 Bonds are being executed and delivered pursuant to that certain Bond Ordinance adopted by the City Council of the City on _____, 2025. The City covenants and agrees as follows:

SECTION 1. Purpose of this Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the City for the benefit of the holders and beneficial owners of the 2025 Bonds and in order to assist the Participating Underwriter in complying with Rule 15c2-12(b)(5) of the Securities and Exchange Commission (the "SEC").

SECTION 2. Definitions. In addition to the definitions set forth in the Indenture or parenthetically defined herein, which apply to any capitalized terms used in this Disclosure Certificate unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

"Annual Report" shall mean any Annual Report provided by the City pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

"Dissemination Agent" shall mean any Dissemination Agent designated in writing by the City and which has filed with the City a written acceptance of such designation.

"Fiscal Year" shall mean the period beginning on January 1 and ending on December 31, or such other 12-month period as may be adopted by the City in accordance with law.

"Listed Events" shall mean any of the events listed in Section 5 of this Disclosure Certificate.

"MSRB" shall mean the Municipal Securities Rulemaking Board. As of the date hereof, the MSRB's required method of filing is electronically via its Electronic Municipal Market Access (EMMA) system, which is currently available at http://emma.msrb.org.

"Official Statement" means the final Official Statement prepared in connection with the 2025 Bonds.

"Participating Underwriter" shall mean the original underwriter of the 2025 Bonds required to comply with the Rule in connection with an offering of the 2025 Bonds.

"Rule" shall mean Rule 15c2-12(b)(5) adopted by the SEC under the Securities Exchange Act of 1934, as in effect on the date of this Disclosure Certificate.

SECTION 3. Provision of Annual Reports.

(a) The City shall, or shall cause the Dissemination Agent to, not later than July 31 following the end of the City's fiscal year, commencing on July 31, 2019, provide to the MSRB (in an electronic format as prescribed by the MSRB), an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Certificate. Not later than five (5) business days prior to said date, the City shall provide the Annual Report to the Dissemination Agent (if the City has selected one). The Annual Report may be submitted as a single document or as separate documents comprising a package and may cross-reference other information as provided in Section 4 of this Disclosure Certificate; provided that the audited financial statements of the City may be submitted separately from the balance of the Annual Report.

(b) If the City is unable to provide to the MSRB an Annual Report by the date required in subsection (a), the City shall, in a timely manner, file or cause to be filed with the MSRB a notice in substantially the form attached to this Disclosure Certificate as Exhibit "A."

SECTION 4. Content of Annual Reports. The City's Annual Report shall contain or incorporate by reference the following:

(a) A copy of its annual financial statements, if any, prepared in accordance with generally accepted accounting principles audited by a firm of certified public accountants. If audited annual financial statements are not available by the time specified in Section 3(a) above, audited financial statements will be provided when and if available.

(b) An update of the type of information identified in Exhibit "B" hereto, which is contained in the tables in the Official Statement with respect to the 2025 Bonds.

Any or all of the items listed above may be incorporated by reference from other documents (including official statements), which are available to the public on the MSRB's Internet Web Site or filed with the SEC. The City shall clearly identify each such document incorporated by reference.

SECTION 5. Reporting of Listed Events. The City shall file or cause to be filed with the MSRB, in a timely manner not in excess of ten (10) business days after the occurrence of the event, notice of any of the events listed below with respect to the 2025 Bonds. All of the events currently mandated by the Rule are listed below; however, some may not apply to the 2025 Bonds.

(1) Principal and interest payment delinquencies;

(2) Non-payment related defaults, *if material*;

(3) Unscheduled draws on debt service reserves reflecting financial difficulties;

(4) Unscheduled draws on credit enhancements reflecting financial difficulties;

(5) Substitution of credit or liquidity providers or their failure to perform;

(6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the 2025 Bonds, or other material events affecting the tax status of the 2025 Bonds;

(7) Modifications to rights of Bondholders, *if material*;

(8) 2025 Bonds calls, *if material*, and tender offers;

(9) Defeasances;

(10) Release, substitution, or sale of property securing repayment of the 2025 Bonds, *if material;*

(11) Rating changes;

(12) Bankruptcy, insolvency, receivership, or similar event of the obligated person;*

(13) The consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, *if material*;

(14) Appointment of a successor or additional trustee or the change of name of a trustee, *if material*;

(15) Incurrence of a financial obligation† of the obligated person, *if material*, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the City, any of which affect security holders, *if material*; and

(16) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation[2] of the obligated person, any of which reflect financial difficulties.

* For the purposes of the event identified in subparagraph (b)(5)(i)(C)(12) of the Rule, the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for an obligated person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the obligated person, or if such jurisdiction has been assumed by leaving the existing governing body and official or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the obligated person.

† For purposes of the events identified in subparagraphs (b)(5)(i)(C)(15) and (16) of the Rule, the term "financial obligation" is defined to mean a (A) debt obligation; (B) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (C) a guarantee of (A) or (B). The term "financial obligation" shall not include municipal securities as to which a final official statement has been otherwise provided to the MSRB consistent with the Rule. In complying with Listed Events (15) and (16), the City intends to apply the guidance provided by the Rule or other applicable federal securities law, SEC Release No. 34-83885 (August 20, 2018) and any future guidance provided by the SEC or its staff.

SECTION 6. Format; Identifying Information. All documents provided to the MSRB pursuant to this Disclosure Certificate shall be in the format prescribed by the MSRB and accompanied by identifying information as prescribed by the MSRB.

As of the date of this Disclosure Certificate, all documents submitted to the MSRB must be in portable document format (PDF) files configured to permit documents to be saved, viewed, printed, and retransmitted by electronic means. In addition, such PDF files must be word-searchable, provided that diagrams, images, and other non-textual elements are not required to be word-searchable.

SECTION 7. Termination of Reporting Obligation. The City's obligations under this Disclosure Certificate shall terminate upon the earliest of: (i) the date of legal defeasance, prior redemption or payment in full of all of the 2025 Bonds; (ii) the date that the City shall no longer constitute an "obligated person" within the meaning of the Rule; or (iii) the date on which those portions of the Rule which require this written undertaking are held to be invalid by a court of competent jurisdiction in a non-appealable action, have been repealed retroactively or otherwise do not apply to the 2025 Bonds.

SECTION 8. Dissemination Agent.

(a) The City may, from time to time, appoint or engage a Dissemination Agent to assist the City in carrying out its obligations under this Disclosure Certificate, and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent. If the City elects not to appoint a successor Dissemination Agent, it shall perform the duties thereof under this Disclosure Certificate. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Certificate and any other agreement between the City and the Dissemination Agent.

(b) In addition to the filing duties on behalf of the City described in this Disclosure Certificate, the Dissemination Agent shall:

(1) each year, prior to the date for providing the Annual Report, determine the appropriate electronic format prescribed by the MSRB;

(2) send written notice to the City at least 45 days prior to the date the Annual Report is due stating that the Annual Report is due as provided in Section 3(a) hereof; and

(3) certify in writing to the City that the Annual Report has been provided pursuant to this Disclosure Certificate and the date it was provided.

(4) If the Annual Report (or any portion thereof) is not provided to the MSRB by the date required in Section (3)(a), the Dissemination Agent shall file with the MSRB a notice in substantially the form attached to this Disclosure Certificate as Exhibit A.

SECTION 9. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the City may amend this Disclosure Certificate and may waive any provision of this Disclosure Certificate, without the consent of the holders and beneficial owners of the 2025 Bonds, if such amendment or waiver does not, in and of itself, cause the undertakings

herein (or action of any Participating Underwriter in reliance on the undertakings herein) to violate the Rule, but taking into account any subsequent change in or official interpretation of the Rule. The City will provide notice of such amendment or waiver to the MSRB.

SECTION 10. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the City from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the City chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Certificate, the City shall have no obligation under this Disclosure Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

SECTION 11. Default. In the event of a failure of the City to comply with any provision of this Disclosure Certificate, any holder or beneficial owner of the 2025 Bonds may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this Disclosure Certificate. A default under this Disclosure Certificate shall not be deemed an event of default under the Indenture, and the sole remedy under this Disclosure Certificate in the event of any failure of the City to comply with this Disclosure Certificate shall be an action to compel performance.

SECTION 12. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the City, the Dissemination Agent, the Participating Underwriter and the holders and beneficial owners from time to time of the 2025 Bonds and shall create no rights in any other person or entity.

[The remainder of this page left intentionally blank.]

DATE: _____, 2025

CITY OF BOULDER, COLORADO

By:_____
Chief Financial Officer

EXHIBIT "A"

NOTICE OF FAILURE TO FILE ANNUAL REPORT

Name of City: City of Boulder, Colorado

Name of Bond Issue: Stormwater and Flood Management Revenue Bonds, Series 2025

Date of Issuance: _____, 2025

CUSIP Number: 10146

NOTICE IS HEREBY GIVEN that the City has not provided an Annual Report with respect to the above-named 2025 Bonds as required by the Continuing Disclosure Certificate dated _____, 2025. The City anticipates that the Annual Report will be filed by _____.

Dated: _____, _____

CITY OF BOULDER, COLORADO

EXHIBIT "B"

OFFICIAL STATEMENT TABLES TO BE UPDATED

See page iv of the Official Statement

NOTE: The information to be updated may be reported in any format chosen by the City; it is not required that the format reflected in this Official Statement be used in future years.

APPENDIX E

FORM OF BOND COUNSEL OPINION

(TO BE PROVIDED BY BOND COUNSEL)

COVER SHEET

MEETING DATE
March 6, 2025

AGENDA ITEM
Introduction, first reading, and consideration of a motion to order published by title only and adopt by emergency measure Ordinance 8689 relating to the financial affairs of the City of Boulder, Colorado, making supplemental appropriations for the fiscal year ending December 31, 2025; and setting forth related details

PRIMARY STAFF CONTACT
Charlotte Huskey, Budget Officer

REQUESTED ACTION OR MOTION LANGUAGE
Motion to introduce, order published by title only and adopt by emergency measure Ordinance 8689 relating to the financial affairs of the City of Boulder, Colorado, making supplemental appropriations for the fiscal year ending December 31, 2025; and setting forth related details

ATTACHMENTS:
Description

- **Item 3F - 1st Rdg Emergency Ord 8689 relating to the financial affairs of the City of Boulder, Colorado, making supplemental appropriations**

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: March 6, 2025

AGENDA TITLE

Introduction, first reading, and consideration of a motion to order published by title only and adopt by emergency measure Ordinance 8689 relating to the financial affairs of the City of Boulder, Colorado, making supplemental appropriations for the fiscal year ending December 31, 2025; and setting forth related details

PRESENTERS

Nuria Rivera-Vandermyde, City Manager
Joel Wagner, Interim Chief Financial Officer
Teresa Taylor Tate, City Attorney
Joe Taddeucci, Utilities Director
Chris Douville, Utilities Deputy Director of Operations
Chris Douglass, Utilities Civil Engineering Senior Manager
Brandon Coleman, Utilities Civil Engineering Manager
Steph Klingeman, Utilities Principal Budget Analyst
Charlotte Huskey, Budget Officer
Ron Gilbert, Assistant Controller

EXECUTIVE SUMMARY

In keeping with budgeting best practices, the City of Boulder will now bring forward a supplemental appropriations ordinance at the same time as a debt issuance. This practice enables greater accuracy of budget appropriation by allowing the city to appropriate and recognize the debt proceeds at the same time as City Council approval, instead of appropriating the debt proceeds within the annual budget, which is often at a different time than council considers a debt issuance. This special adjustment-to-base item will increase and appropriate a total of $66,000,000 in the Stormwater and Flood Management Fund to align with the bond issuance.

If City Council does adopt Bond Ordinance 8690, council is asked to consider adoption of Proposed Emergency Ordinance 8689 (**Attachment A**) to appropriate such funds.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to introduce, order published by title only and adopt by emergency measure Ordinance 8689 relating to the financial affairs of the City of Boulder, Colorado, making supplemental appropriations for the fiscal year ending December 31, 2025; and setting forth related details

OVERVIEW

Staff recommends this appropriation increase of $66,000,000 to the Stormwater and Flood Management Fund as aligned to the debt issuance of the Stormwater and Flood Management Revenue Bonds, Series 2025 for the purpose of providing funds to acquire, construct, improve and equip various stormwater and flood mitigation improvements for the first phase of the South Boulder Creek Flood Mitigation Project (the "Project"). The City Council is authorized to issue debt and appropriate moneys for the stormwater and flood management utility enterprise, under Charter Section 102, 11-5-18, B.R.C., and 11-15-19, B.R.C.

The 2025 budget adopted by City Council in October 2024 included the appropriation of the annual debt service associated with supporting the bond issuance for the Project. In addition, consistent with the language included in the 2025 budget, the six-year capital improvement program included the plan to appropriate the Project funds at the time of bond sale. This item is consistent with this plan to appropriate debt proceeds for project funding at the time of bond issuance.

The Project aims to mitigate flood risks for approximately 3,500 people and 600 structures within the city's floodplain. Over the past 80 years, the area has endured six major floods, with US-36 overtopped in 1969 and 2013, causing significant downstream impacts. The first phase focuses on safeguarding the community, critical infrastructure, and utilities while preserving open space through the construction of a stormwater detention facility, spillway, and outlet works to manage floodwaters effectively.

ATTACHMENT

A – Proposed Emergency Ordinance 8689

ORDINANCE 8689

AN EMERGENCY ORDINANCE RELATING TO THE FINANCIAL AFFAIRS OF THE CITY OF BOULDER, COLORADO, MAKING SUPPLEMENTAL APPROPRIATIONS FOR THE FISCAL YEAR ENDING DECEMBER 31, 2025; AND SETTING FORTH RELATED DETAILS

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

Section 1. The following appropriations are made for the City of Boulder's 2025 fiscal year for payment of 2025 operating expenses, capital improvements, and general obligation and interest payments:

Stormwater and Flood Management Fund

Appropriation from Additional Revenue: $66,000,000

Section 2. Appropriations for individual capital projects or encumbrances or any grant-funded projects in the above-mentioned funds for fiscal year 2025 shall not lapse at year end but continue until the project is completed or cancelled.

Section 3. The council may transfer unused balances appropriated for one purpose to another purpose.

Section 4. The City Council finds this Ordinance is necessary to align with the adoption of the Ordinance 8690, an emergency ordinance authorizing the issuance of stormwater and flood management revenue bonds, justifying the adoption of this Ordinance as an emergency measure.

Pursuant to Sec. 18 of the Boulder City Charter, this Ordinance shall take effect immediately upon publication after final passage.

Section 5. These appropriations are necessary for the protection of the public peace, property, and welfare of the residents of the city and cover matters of local concern.

Section 6. The City Council deems it appropriate that this Ordinance be published by title only and orders that copies of this Ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, PASSED AND ADOPTED AS AN EMERGENCY MEASURE BY TWO-THIRDS COUNCIL MEMBERS PRESENT AND ORDERED PUBLISHED BY TITLE ONLY THIS 6TH DAY OF MARCH 2025.

_____
Aaron Brockett,
Mayor

Attest:

_____
City Clerk

COVER SHEET

MEETING DATE
March 6, 2025

AGENDA ITEM
Consideration of Left Hand Water District's request for comment regarding a water tap for a property in Area III of the Boulder Valley Comprehensive Plan (4473 N 51st Street)

PRIMARY STAFF CONTACT
Christopher Ranglos, City Planner Senior

ATTACHMENTS:

Description

- **Item 4A - Left Hand Water District Referral**

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: March 6, 2025

AGENDA TITLE

Left Hand Water District's request for comment regarding a water tap for a property in Area III of the Boulder Valley Comprehensive Plan (4473 N 51st Street).

PRESENTER(S)

Nuria Rivera-Vandermyde, City Manager
Brad Mueller, Director, Planning & Development Servies
Kristofer Johnson, Comprehensive Planning Senior Manager
Mark Garcia, Civil Engineering Senior Manger
Hella Pannewig, Senior Counsel, City Attorneys Office
Charles Ferro, Development Review Planning Senior Manager
Chris Ranglos, City Senior Planner

EXECUTIVE SUMMARY

The Left Hand Water District (District) is a special water district that provides treated water to about 6,500 homes in Boulder and Weld counties. The City of Boulder and the District entered into the 1995 Amended and Restated Agreement (Agreement) that provides a process for the city to comment on requests that are made for new service or changes in service to existing District water customers in the Boulder Valley Comprehensive Plan (BVCP) Planning Area. The Agreement also provides that the city may ask for a hearing before the District's board if it has any objections to the requested service. The city's review of the requests revolves around whether the District has the capacity to serve the new customers and whether the request is consistent with the BVCP.

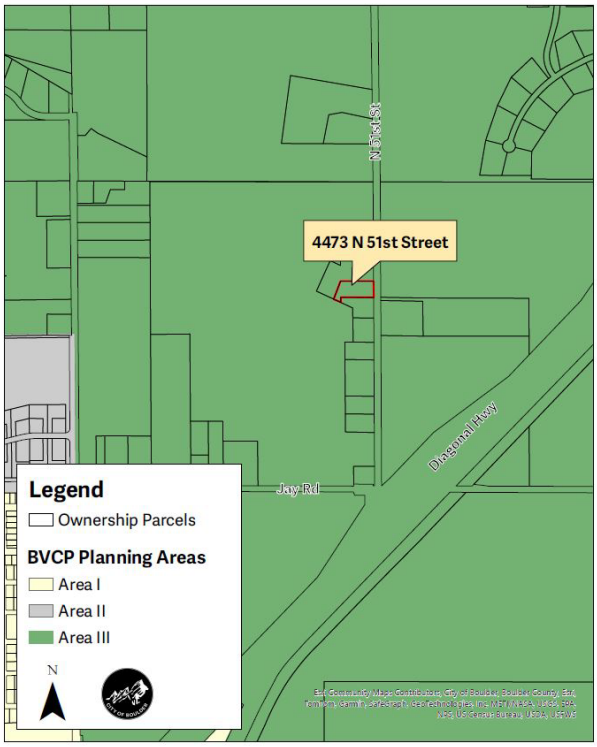
The city has received a referral from the District to grant water service for an existing single family home at 4473 N 51st Street under an individual service contract. Staff has determined that the request is consistent with both the BVCP and the city's Agreement with the District. No action is required by the City Council.

BACKGROUND

The city and the District have a long history of coordination of utility services within the Planning Area. Special districts are quasi-municipal corporations and political subdivisions under state law. While there are a number of special districts that provide various services within the Boulder Valley, the city and Boulder County have discouraged the expansion of such districts. Since the early 1970's, the city and the District have worked to prevent conflicts between city and District water service and to ensure that any utility service within the Boulder Valley is done in a manner that is consistent with the BVCP.

The present arrangement between the city and District is in the 1995 Amended and Restated Agreement. Per the terms of the Agreement, the District will seek comments from the city and give due consideration to these comments prior to expanding its water supply utility or granting requests for new water taps in the Boulder Valley. The city may request a full hearing before the District's Board of Directors as part of this process if there are concerns about the proposed service. The city prefers that service be provided by District water contracts rather than expansion of the District as articulated in the BVCP.

The Agreement provides for an administrative process that the city uses to review expansion requests such as new tap requests. The requests are reviewed by the Planning and Public Works staff in the city's Development Review Committee (DRC) process. Those comments are also reviewed by the city's Policy Resolution Group (PRG), which consists of representatives from the senior management of Planning, Public Works and the City Attorney's Office. The request at issue has been reviewed by both DRC and PRG members.



ANALYSIS

Two issues are at the center of the review of the water tap application:

1) Does the granting of the tap constitute new urban development under the BVCP?

The property requesting a water tap is located within Area III – Rural Preservation. The intent of the Area III is to preserve existing rural land uses and character, and to discourage "over-intensive rural development." BVCP policies 1.14 and 1.15 define and describe "new urban development" and acknowledge that through joint planning of the city and county, new urban development will only occur where adequate urban services are available. The city has determined that no new urban development or over-intensive rural development will result from the grant of a new tap by the District. The property will be used or developed in compliance with the existing County Land Use Regulations and current BVCP policies.

2)

Does the District have the capacity to serve the properties requesting water taps?

Per the letter from Left Hand Water dated January 21, 2022 to the city, "The District has the ability to serve this property with a 3/4" water tap". The property is currently a single family home currently served by a cistern within the Left Hand Water District boundary. The Agreement contains a covenant that "in the event that the District agrees to provide a water tap to an existing use or parcel, the District agrees to provide such tap solely by means of a service contract with the District, not by an expansion of the District."

Per the Intergovernmental Agreement between the City of Boulder and the Left Hand Water District (the "District"), dated April 11, 1995:

(1) the requested water tap for the existing residence at 4473 51st St. may be provided solely by means of a service contract with the District, not by an expansion of the District;
(2) any replacement, enlargement, or extension of the District's water supply utility within the Boulder Valley must be designed and constructed to meet or exceed currently applicable requirements of the City of Boulder; and
(3) the District must require the owners of the property requesting the new tap to covenant that additional requests for services for new taps or units will not be made during the term so of the service contract.

NEXT STEPS

The city manager will be asked to sign a letter to the District indicating that the city will not oppose the extension of the water tap pursuant to service contracts with the District to the identified property.

COVER SHEET

MEETING DATE
March 6, 2025

AGENDA ITEM

Second reading and consideration of a motion to adopt Ordinance 8651, amending Title 1, "General Administration," Title 4, "Licenses and Permits," Title 5, "General Offices," Title 9, "Land Use Code," and Title 10, "Structures," B.R.C. 1981, to update residential occupancy standards to ensure conformance with Colorado House Bill 24-1007, "Concerning Residential Occupancy Limits," and setting forth related details

PRIMARY STAFF CONTACT

Karl Guiler, Policy Advisor Senior

REQUESTED ACTION OR MOTION LANGUAGE

Motion to adopt Ordinance 8651, amending Title 1, "General Administration," Title 4, "Licenses and Permits," Title 5, "General Offices," Title 9, "Land Use Code," and Title 10, "Structures," B.R.C. 1981, to update residential occupancy standards to ensure conformance with Colorado House Bill 24-1007, "Concerning Residential Occupancy Limits," and setting forth related details

ATTACHMENTS:

Description

- **Item 5A - 2nd Rdg Ord 8651 Occupancy Update to Meet State Law**

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: March 6, 2025

AGENDA TITLE

Second reading and consideration of a motion to adopt Ordinance 8651, amending Title 1, "General Administration," Title 4, "Licenses and Permits," Title 5, "General Offices," Title 9, "Land Use Code," and Title 10, "Structures," B.R.C. 1981, to update residential occupancy standards to ensure conformance with Colorado House Bill 24-1007, "Concerning Residential Occupancy Limits," and setting forth related details.

PRESENTERS

Nuria Rivera-Vandermyde, City Manager
Mark Woulf, Assistant City Manager
Brad Mueller, Director of Planning & Development Services
Charles Ferro, Senior Planning Manager
Karl Guiler, Senior Policy Advisor

EXECUTIVE SUMMARY

This ordinance has been drafted in response to state legislation passed in the 2024 Colorado legislative session regarding residential occupancy (HB24-1007, Prohibit Residential Occupancy Limits). The state law prohibits local governments from enforcing occupancy requirements as of July 1, 2024 that are based on familial relationships, but allows established life and safety occupancy restrictions to be used. The changes in Ordinance 8651 update occupancy limits to align with the health and safety standards in the International Property Maintenance Code (IPMC), rather than basing limits on numbers of unrelated people, and thereby familial relationship, and updates terminology throughout the Boulder Revised Code accordingly. Staff is recommending passage of the

ordinance to have consistency with the state law and to avoid any confusion or ambiguity to property owners and landlords on what occupancy standards apply.

In addition to the descriptions and analysis provided in this memo, the annotated ordinance is provided in **Attachment A**. The draft ordinance without footnotes is available in **Attachment B.**

Planning Board unanimously recommended that City Council adopt the ordinance at its December 3, 2024 public hearing. If adopted, changes would go into effect 30 days after adoption by City Council. Consistent with the state law, the city has ceased enforcement of the current zoning regulations on occupancy that are based on familial relationships and is using the IPMC, which is based on life and safety standards and has been in use by the city for years.

City Council considered and passed the ordinance on first reading on Feb. 6, 2025.

KEY ISSUE

Staff has identified the following key issue to help guide the City Council's discussion:

1. Does City Council recommend any modifications to the draft ordinance?

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to adopt Ordinance 8651, amending Title 1, "General Administration," Title 4, "Licenses and Permits," Title 5, "General Offices," Title 9, "Land Use Code," and Title 10, "Structures," B.R.C. 1981, to update residential occupancy standards to ensure conformance with Colorado House Bill 24-1007, "Concerning Residential Occupancy Limits," and setting forth related details.

RESPONSES TO QUESTIONS FROM COUNCIL AGENDA COMMITTEE

None.

BOARD AND COMMISSION FEEDBACK

Planning Board – Planning Board unanimously recommended that City Council adopt Ordinance 8651 at its December 3, 2024 public hearing on a vote of 5 to 0. After asking staff questions regarding the ordinance, the board deliberated with one board member mentioning the importance of the ordinance in opening up housing opportunities, removing zoning barriers to housing, and eliminating zoning regulations that have

discriminatory roots. The board member noted that the change is a human rights issue and the ordinance is a powerful step forward. The other board members agreed. One member noted that while zoning occupancy limits would no longer apply should the ordinance pass, life and safety occupancy limits based on the number and size of bedrooms would still apply. The board's motion to recommend adoption of the ordinance is below:

> **C. Hanson Thiem** made a motion seconded by **K. Nordback** that Planning Board recommend that City Council adopt Ordinance 8651, amending Section 4-20-18, "Rental License Fee," Title 9, "Land Use Code," and Title 10 "Structures," B.R.C. 1981, to update the occupancy regulations, and setting forth related details. Planning Board voted 5-0. Motion passed.

Housing Advisory Board – Staff briefed Housing Advisory Board on the proposed ordinances on accessory dwelling units and occupancy on November 20, 2024. The board expressed support for the ordinances moving forward. On January 22, 2025, the board considered Ordinance 8651 and unanimously recommended that City Council adopt the ordinance.

COMMUNITY FEEDBACK

Since these changes are in response to state legislation, an *inform* level of engagement for this project has been used. Significant feedback on the topic was received during the most recent updates in 2023 for occupancy. Extensive feedback was received in 2023 on the changes to occupancy at that time. The city used a variety of methods including meeting with specific interested groups and neighborhoods and doing an online questionnaire that had over 2,000 responses and 1,000 written comments. This feedback can be reviewed within a 2023 memo to City Council at this link. Notification of the current changes has been announced in the Planning and Development Services monthly newsletter, which reaches over 5,000 people. As part of the newsletter, staff has provided a link to an online presentation at this link that includes detailed descriptions of all the land use related state bills.

Staff has received emails from community members on the topic of occupancy and has also met with representatives of the University Hill Neighborhood Association (UHNA) both expressing concerns with changing the occupancy requirements. UHNA noted that "the Hill" is already impacted by nonconforming density and occupancy and the code change would exacerbate impacts. The group mentioned examples of investment properties already buying up properties and adding bedrooms into structures (e.g., so called "shadow dorms") with some cases being done without permits. These concerns are in conjunction with other zoning changes that permit duplexes more widely in the low density residential areas of the city and more units in the RMX-1 zone. The group intended to bring these concerns to other council members and potentially forming a working group or task force on how to address the anticipated impacts of allowing more people and units in the neighborhood.

BACKGROUND

The city of Boulder has adopted several ordinances over the past few years to address the growing cost of housing. This includes 2023 code updates to the city's ADU standards to enable more ADUs citywide, changing the prior occupancy limitations per dwelling unit from 3 or 4 unrelated people per unit to 5 unrelated per unit, and the removal of zoning barriers to residential uses with a focus on the high density residential, business, and industrial zones. In early 2024, the city also removed its residential growth management system, which previously limited the number of residential building permits per year in response to a 2023 state bill that prohibited such restrictions.

Since the adoption of these local ordinances, the state legislature adopted several new bills related to land use and housing in the 2024 legislative session. HB24-1007 prohibits residential occupancy limits based on familial relationships (which is aimed predominantly on restrictions on the number of unrelated people per unit). A more detailed description of the house bill is provided below:

HB24-1007, Prohibit Residential Occupancy Limits

HB24-1007, adopted on April 15, 2024, specifies the following:

- Prohibits local governments from enforcing occupancy standards based on familial relation as of July 1, 2024.
- States that local governments may not limit the number of people who may live together in a single dwelling based on family relationships.
- Only allows occupancy limits based on demonstrated health and safety standards, such as international building code standards, fire code regulations, or Colorado Department of Public Health and Environmental Wastewater and Water Quality Standards or Local, State, Federal, or Political Subdivision Affordable Housing Program Guidelines.

Since adoption of the state bill, staff has ceased enforcement of the existing residential occupancy standards in the land use code (e.g., maximum of five unrelated persons per units) and has continued to enforce the life safety related International Property Maintenance Code (IPMC) to regulate residential occupancy based on the number and size of bedrooms in each dwelling unit. The IPMC requires that each bedroom be no fewer than 70 square feet in size, with a minimum of 50 square feet per occupant of a bedroom (IPMC sec.404.4.1). In addition, IPMC table 404.5 prescribes minimum areas for living and dining rooms based on the number of occupants of the dwelling unit.

Staff has prepared a draft ordinance that would bring the city's land use code into compliance with HB24-1007 for occupancy as described in detail below.

SUMMARY OF PROPOSED CHANGES IN ORDINANCE 8651

The changes in Ordinance 8651 update occupancy limits to align with the health and safety standards in the International Property Maintenance Code, rather than familial relationships, and updates terminology throughout the municipal code accordingly. The

following sections provide background and summarize major topics related to the draft ordinance.

Ordinance 8651: Occupancy

- Removes all references to residential occupancy limits in the Boulder Revised Code based on "unrelated persons" and replaces with references to Chapter 10-2, "Property Maintenance Code," B.R.C., and the International Property Maintenance Code
- Completely removes the 'Cooperative Housing License' requirements within Title 10, "Structures," in the BRC, which are a permitting process to request more than five unrelated persons in a dwelling unit and up to 12 with special approval
- Clarifies in Title 9, Land Use Code, that any prior approvals that may have restricted occupancy based on unrelated persons by condition or otherwise would no longer apply and would be superseded by the updated regulations to comply with H.B.24-1007;
- Removes references to occupancy in the land use code related to congregate care, custodial care facilities, residential care facilities, and group homes to avoid conflicts with state law for any units that may be considered a "single dwelling" (e.g., a household living configuration). These uses will continue to be subject to applicable IPMC and International Building Code occupancy limitations.
- Moves enforcement provisions for occupancy from Title 9, Land Use Code, to Title 10, Structures, because that is where occupancy standards will be located.
- Updates references and definitions for 'single-family dwellings' and 'multi-family dwellings' to be 'detached dwelling units' and 'multi-unit dwellings' consistently throughout the code. This aligns with terminology used in recent state bills on housing and advances city goals reflected in the Sustainability, Equity and Resilience ("SER") Framework.

Attachment A contains the annotated version of the ordinance and **Attachment B** is the ordinance intended for adoption.

ANALYSIS

Staff has identified the following key issue to help guide the City Council's discussion:

1. Does City Council recommend any modifications to the draft ordinance?

The following analysis is provided to demonstrate how the project objective is met through the proposed ordinance.

What is the reason for the ordinance and what public purpose will be served?

This ordinance has been drafted in response to recent state legislation. The occupancy changes in Ordinance 8651 will ensure that the health and safety standards in the International Property Maintenance Code are used to regulate maximum occupancy of dwelling units rather than basing occupancy on number of unrelated persons.

The change is intended to open up more housing opportunities in municipalities to help mitigate the ever-growing cost of housing. Allowing more unrelated occupants within units offers a wider variety of housing types and sizes.

How is the ordinance consistent with the purpose of the zoning districts or code chapters being amended?

The occupancy changes will not necessarily be inconsistent with the purpose or intent statements within the land use code and would remove a decades long provision in the land use code intended to control general intensity and impacts of uses by limiting the number of people within units. Some have argued that these occupancy standards were created with some exclusionary motivations.

Are there consequences in denying this ordinance?

The changes in the ordinance are intended to address the new state legislation. Not updating the land use code relative to occupancy would create inconsistencies with the state law, create confusion in the community on what occupancy limitations apply to dwelling units, and ambiguity on what is considered compliant.

What adverse effects may result with the adoption of this ordinance?

An increase in the number of people that are unrelated within dwelling units could potentially increase parking demand on sites and areas where there is insufficient off-street parking, since there may be fewer instances of car sharing. In turn, a large family within a dwelling unit (permissible under the current land use code) could present commensurate or even larger parking impacts than a dwelling unit occupied by unrelated people. Residential parking impact is something that is being evaluated as part of the current Access Management Parking Strategy project, which is slated to be completed in mid-2025. While there is the potential for additional intensity on some sites from increased occupancy, household and family sizes have been trending downward in recent decades and this could mitigate changes in intensity. Therefore, staff does not anticipate adverse effects will result from the adoption of this ordinance. Impacts that can occur in residential neighborhoods, such as noise, litter, and unkept lawns, for instance, would be handled through enforcement of the chronic nuisance program.

What factors are influencing the timing of the proposed ordinance? Why?

HB24-1007 related to occupancy established July 1, 2024, as the effective date. It does not have a stated deadline for which municipalities must update their zoning to comply. Updating the occupancy regulations at this time will help to make the regulations clear to property owners and rental property management companies that market properties and prepare leases.

How does the ordinance compare to practices in other cities?

This ordinance will align Boulder's requirements with the recent state legislation, which applies to cities throughout the state related to occupancy. The state bill states that it applies to any "*home rule or statutory city, home rule or statutory county, town, territorial charter city, or city and county*."

How will this ordinance implement the comprehensive plan?

This project implements several relevant policies noted below. Allowing more occupants within units offers a wider variety of housing types and sizes consistent with the policies below.

Growth Management Policy 1.11 Jobs: Housing Balance
Boulder is a major employment center, with more jobs than housing for people who work here. This has resulted in both positive and negative impacts, including economic prosperity, significant in-commuting and high demand on existing housing. The city will continue to be a major employment center and will seek opportunities to improve the balance of jobs and housing while maintaining a healthy economy. This will be accomplished by encouraging new housing and mixed-use neighborhoods in areas close to where people work, encouraging transit-oriented development in appropriate locations, preserving service commercial uses, converting commercial and industrial uses to residential uses in appropriate locations, improving regional transportation alternatives and mitigating the impacts of traffic congestion.

Built Environment Policy 2.10: Preservation & Support for Residential Neighborhoods
The city will work with neighborhoods to protect and enhance neighborhood character and livability and preserve the relative affordability of existing housing stock. The city will also work with neighborhoods to identify areas for additional housing, libraries, recreation centers, parks, open space or small retail uses that could be integrated into and supportive of neighborhoods. The city will seek appropriate building scale and compatible character in new development or redevelopment, appropriately sized and sensitively designed streets and desired public facilities and mixed commercial uses. The city will also encourage neighborhood schools and safe routes to school.

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 7.11: Balancing Housing Supply with Employment Base
The Boulder Valley housing supply should reflect, to the extent possible, employer workforce housing needs, locations and salary ranges. Key considerations include housing type, mix and affordability. The city will explore policies and programs to increase housing for Boulder workers and their families by fostering mixed-use and multi-family development in proximity to transit, employment or services and by considering the conversion of commercial- and industrial-zoned or -designated land to allow future residential use.

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 & 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.

NEXT STEPS

Adoption of Ordinance 8651 would put the rules in effect on April 5, 2025 and bring Boulder's land use code into alignment with state law. Irrespective of this, the city has not been enforcing the existing zoning occupancy standards since July 1, 2024 consistent with state requirements. As has been implemented for years, the IPMC will continue to set the maximum occupancy within dwelling units to ensure life safety.

ATTACHMENTS

Attachment A: Annotated Ordinance 8651
Attachment B: Ordinance 8651

ANNOTATED ORDINANCE 8651

AN ORDINANCE AMENDING TITLE 1, "GENERAL ADMINISTRATION," TITLE 4, "LICENSES AND PERMITS," TITLE 5, "GENERAL OFFENSES," TITLE 9, "LAND USE CODE," AND TITLE 10, "STRUCTURES," B.R.C. 1981, TO AMEND RESIDENTIAL OCCUPANCY STANDARDS TO COMPLY WITH COLORADO HOUSE BILL 24-1007, CONCERNING RESIDENTIAL OCCUPANCY LIMITS , AND SETTING FORTH RELATED DETAILS.

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

Section 1. Section 1-2-1, "Definitions," B.R.C. 1981, is amended to read as follows:

1-2-1. - Definitions.

(a) The definitions in this chapter apply throughout this code unless a term is defined differently in a specific title, chapter or section.

(b) The following words used in this code and other ordinances of the City have the following meanings unless the context clearly indicates otherwise:

Dwelling unit, detached means a detached principal building other than a mobile home, designed for or used as a dwelling with no more than one dwelling unit within a structure.

Duplex means a structure containing only two dwelling units.[1]

Family means the heads of household plus the following persons who are related to the heads of the household: parents and children, grandparents and grandchildren, brothers and sisters, aunts and uncles, nephews and nieces, first cousins, the children of first cousins, great grandchildren, great grandparents, great great grandchildren, great great grandparents, grandnieces, grandnephews, great aunts and great uncles. These relationships may be of the whole or half blood, by adoption, guardianship, including foster children, or through a marriage or a domestic partnership meeting the requirements of chapter 12-4, "Domestic Partners," B.R.C. 1981, to a person with such a relationship with the heads of household.

[1] As Title 1 includes definitions about dwelling unit types, other types of dwellings from Title 9, Land Use Code, are also listed here. The definitions match those in Title 9.

Multi-unit dwelling means a building ~~used by~~ of two or more ~~of the following groups of persons living independently of each other in separate~~ dwelling units but not including motels, hotels, and detached dwelling units.~~and resorts..:~~

~~(1) The members of a family plus one or two roomers. The quarters the roomers use shall not exceed one-third of the total floor area of the dwelling unit and shall not be a separate dwelling unit;~~

~~(2) Up to three individuals in RR-1, RR-2, RE, and RL zones;~~

~~(3) Up to eight persons sixty years of age or older in RR-1, RR-2, RE, and RL zones;~~

~~(4) Up to four individuals in RM, RMX, MU-1, MU-2, MU-3, RH-1, RH-2, RH-3, RH-4, RH-5, BT, BC, DT-1, DT-2, DT-3, DT-4, DT-5, IS, IG, IM, IMS, BMS, and BR zones; or~~

~~(5) Two individuals and any of their children by blood, marriage, guardianship, including foster children, or adoption.~~[2]

Rooming house means an establishment where, for direct or indirect compensation, lodging, with or without kitchen facilities or meals, is offered for one month or more for three or more roomers living independently within rooming units. ~~not related to the family of the heads of the household.~~

Rooming unit means a type of housing accommodation that consists of a room or group of rooms for a roomer, arranged primarily for sleeping and studying, and that may include a private bath but does not include a sink or any cooking device.

~~Single-unit dwelling means a detached principal building other than a mobile home, designed for or used as a dwelling exclusively by one group of the following persons as an independent living unit.:~~

~~(1) The members of a family plus one or two roomers. The quarters the roomers use shall not exceed one-third of the total floor area of the dwelling unit and shall not be a separate dwelling unit;~~

~~(2) Up to three individuals in RR-1, RR-2, RE and RL zones;~~

~~(3) Up to eight persons sixty years of age or older in RR-1, RR-2, MU-2, RE and RL zones;~~

~~(4) Up to four individuals in RM, RMX, MU-1, MU-2, MU-3, RH-1, RH-2, RH-3, RH-4, RH-5, BT, BC, DT-1, DT-2, DT-3, DT-4, DT-5, IS, IG, IM, IMS, BMS and BR zones; or~~

[2] This definition in Title 1 included the anticipated occupancy requirements from years ago and thus, is being removed. The limitations are also inconsistent with the recent state law.

~~(5) Two individuals and any of their children by blood, marriage, guardianship, including foster children, or adoption.~~

Townhouse means an attached dwelling unit located or capable of being located on its own lot, and separated from adjoining dwelling units by a wall extending from the foundation through the roof which is structurally independent of the corresponding wall of the adjoining unit.

Section 2. Section 4-4-4, "Classification of Licenses," B.R.C. 1981, is amended to read as follows:

4-4-4. Classification of Licenses.

(a) A Class A license entitles the licensee to contract for the construction, alteration, wrecking, or repair of any type or size of building or structure permitted by the City of Boulder Building Code. The annual fee for a Class A license is that prescribed in Section 4-20-4, "Building Contractor License, Building Permit Fees, and Payment of Estimated Use Tax," B.R.C. 1981.

(b) A Class B license entitles the licensee to contract for the construction, alteration, wrecking, or repair of all commercial and residential buildings or structures defined as Type V, Type V-1 hour, Type IV, Type II-N, and Type III-N in the City of Boulder Building Code.[3] The annual fee for a Class B license is that prescribed in Section 4-20-4, "Building Contractor License, Building Permit Fees, and Payment of Estimated Use Tax," B.R.C. 1981.

(c) A Class C license entitles the licensee to contract for:

(1) The construction, alteration, wrecking, or repair of any R-3 occupancies or of R-1 occupancies, as defined in the City of Boulder Building Code, Chapter 10-5, "Building Code," B.R.C. 1981, of two stories or less not involving reinforced concrete construction; and

(2) The repair of nonresidential buildings not involving load-bearing structures. But this Class C license does not entitle the holder to contract for construction, alteration, or repair of public buildings or places of public assembly, nor for nonresidential projects whose total value of the labor and material exceeds $5,000. The annual fee for a Class C license is that prescribed

[3]Chapter 10-5, "Building Code," B.R.C. 1981.

in Section 4-20-4, "Building Contractor License, Building Permit Fees, and Payment of Estimated Use Tax," B.R.C. 1981.

(d) A Class D license entitles the licensee to contract for labor or for labor and materials involving only one trade, these trades will be identified as listed below:

D-1.	Moving and wrecking of structures
D-2.	Roofing
D-3.	Siding
D-4.	Landscaping, irrigation, and site work
D-5.	Detached one-story garage and sheds accessory to ~~single-family~~detached dwelling units~~s~~ [4]
D-6.	Mobile home installer
D-7.	Elevator and escalator installer
D-8.	Class not identified above but requiring a building permit and inspection
D-9.	Rental housing inspector

Section 3. Section 4-13-4, “Classification of Licenses,” B.R.C. 1981, is amended to read as follows:

4-13-4. Classifications of Licenses.

(a) A Class A license entitles the licensee to undertake or perform any work covered by the city mechanical code. The annual fee for a Class A license is that prescribed by section 4-20-13, "Mechanical Contractor License and Mechanical Permit Fees," B.R.C. 1981.

(b) A Class B license entitles the licensee to undertake or perform work covered by the mechanical code for commercial and dwelling units except for work associated with sections 507 and 508 and the following occupancies "H" and "I" as defined in the city mechanical code. The annual fee for a Class B license is that prescribed by section 4-20-13, "Mechanical Contractor License and Mechanical Permit Fees," B.R.C. 1981.

[4] As the state has prompted local governments to not regulate occupancy based on familial relationships, it also has been using dwelling unit terminology that removes the term “family” from any unit type. For instance, multi-family is now termed multi-unit and single-family is either single-unit or detached dwelling unit. Other local governments have been making that change. Therefore, this ordinance makes this change throughout the Boulder Revised Code and the primary reason for the length of the ordinance and number of sections being changed.

(c) A Class C license entitles the licensee to undertake or perform work covered through the city mechanical code for ~~one-~~detached dwelling units and ~~two-family dwellings~~duplexes. The annual fee for a Class C license is that prescribed by section 4-20-13, "Mechanical Contractor License and Mechanical Permit Fees," B.R.C. 1981.

(d) A Class D license entitles the licensee to undertake or perform work covered by sections 507 and 508 of the city mechanical code. The annual fee for a Class D license is that prescribed by section 4-20-13, "Mechanical Contractor License and Mechanical Permit Fees," B.R.C. 1981.

(e) A Class E license entitles the licensee to undertake or perform boiler, water heaters and hydronics covered in chapters 10 and 12 of the city mechanical code. The annual fee for a Class E license is that prescribed by Section 4-20-13, "Mechanical Contractor License and Mechanical Permit Fees," B.R.C. 1981.

Section 4. Section 4-20-4(f), "Building Contractor License, Building Permit Fees, and Payment of Estimated Use Tax.," B.R.C. 1981, is amended to read as follows:

(f) Other fees are as follows:

	Permit	***Fee***
(1)	Demolition Permit	
	(A) Interior/nonloadbearing	$ 24.55
	(B) All other	$173.70
(2)	Fence Permit and Retaining Wall Permit	$4.05 for each $100 (No maximum)
(3)	Temporary Event Permit Fee	$28.05
(4)	Reinspection Fee	$94 per occurrence (Payable before any further inspections can be done.)
(5)	Change of Use Fee	$81 (Can be credited to building permit fee if permit applied for and paid within ninety days.)
(6)	After Hours Inspection	$123 per hour - two-hour minimum
(7)	Plan Check Fee (due at time of permit application):	
	(A) Residential, detached ~~single family~~dwelling units in the RR-1, RR-2,	Fifty percent of the building permit fee

	RE, RL-1, RMX-1; and detached ~~single family~~dwelling units in RL-2 on lots larger than 8,000 square feet and that are not within the boundaries of a planned development, planned residential development, planned unit development, or an approved site review; or shown on Appendix H of Title 9, Land Use Code	
	(B) All other residential, ~~single family~~detached dwelling units not covered by (A) above	Twenty-five percent of the building permit fee
	(C) Residential, multi-unit dwellings ~~family~~	Sixty-five percent of the building permit fee
	(D) Nonresidential	Sixty-five percent of the building permit fee
(8)	Energy Code Calculation Fee:	
	Heat Loss Calculation Check Fee:	
	(A) Residential	$ 83.90
	(B) Commercial	$104.05
(9)	Reinstatement of Permit	Fifty percent of Building Permit Fee (Energy Fee will not be charged if no further review is required.)
(10)	Temporary Certificate of Occupancy	$173.70
(11)	Replacement of Lost Plans/New Red-lines:	
	(A) Residential/tenant finish	$116.60 plus cost of reproduction
	(B) Commercial - New	$347.60 plus cost of reproduction
(12)	Gasoline Tank Installations	$69.54
(13)	House Moving Permit	$58.50

(14)	Grading Fees:
	(A) Grading Plan Review Fees:
	(i) Fifty cubic yards or less No fee
	(ii) Fifty-one through one hundred cubic yards $18.65
	(iii) One hundred one through one thousand cubic yards $28
	(iv) One thousand one through ten thousand cubic yards $37.30
	(v) Ten thousand one through one hundred thousand cubic yards - $37.30 for the first ten thousand cubic yards, plus $18.65 for each additional ten thousand yards or fraction thereof.
	(vi) One hundred thousand one through two hundred thousand cubic yards - $205.60 for the first one hundred thousand cubic yards, plus $11.15 for each additional ten thousand cubic yards or fraction thereof.
	(vii) Two hundred thousand one cubic yards or more - $317.45 for the first two hundred thousand cubic yards, plus $5.55 for each additional ten thousand cubic yards or fraction thereof.
	(viii) Additional plan review required by changes, additions, or revisions to approved plans - $51.30 per hour (minimum charge—one-half hour).
	(B) Grading Permit Fees:
	(i) Fifty cubic yards or less $18.65
	Fifty-one through one hundred cubic yards $28
	(ii) One hundred one through one thousand cubic yards - $28 for the first one hundred cubic yards plus $12.60 for each additional one hundred cubic yards or fraction thereof.
	(iii) One thousand one through ten thousand cubic yards - $145.70 for the first one thousand cubic yards, plus $11.15 for each additional one thousand cubic yards or fraction thereof.
	(iv) Ten thousand one through one hundred thousand cubic yards - $246.50 for the first ten thousand cubic yards, plus $50.25 for each additional ten thousand cubic yards or fraction thereof.

	(v) One hundred thousand one cubic yards or more - $700.30 for the first one hundred thousand cubic yards, plus $28 for each additional ten thousand yards or fraction thereof.
The fee for any permit issued after construction has begun shall be twice the amount of each fee listed above.	

Section 5. Section 4-20-8, "Electrical Contractor Registration and Electrical Permit Fees," B.R.C. 1981, is amended to read as follows:

4-20-8. Electrical Contractor Registration and Electrical Permit Fees.

(a) For each electrical permit, the following fees shall be paid in addition to the fees established for building permits under Section 4-20-4, "Building Contractor License, Building Permit Fees, and Payment of Estimated Use Tax," B.R.C. 1981:

(1) Permit fees.

(A) Residential (one- and two-unit dwellings, and townhouses, new construction, extensive remodeling, and additions [based on enclosed living area]):

Size	*Fee*
Less than 500 square feet	$36.70
500 through 999 square feet	51.75
1,000 through 1,499 square feet	69.60
1,500 through 1,999 square feet	90.25
2,000 square feet or more	90.25 plus $5.90 per 100 square feet over 2,000 square feet

(B) Residential Service Change $36.70

(C) Photovoltaic/Thermal System Permit $69.60

(2) All other fees (including, without limitation, commercial construction and multi-unit dwelling~~family~~) based on the total cost of the electrical installations, including labor

and electrical materials and items except as provided in Paragraphs (a)(3) and (a)(4) of this section:

Value	*Fee*
$300 or less	$ 42.85
$300.01 through $3,000	50.90
$3,000.01 and up	19.60 per $1,000 of total valuation or fraction thereof
Photovoltaic/Thermal System Permit	139.20

(3) Mobile Home Spaces $42.85 per space

(4) Temporary Construction Power Permit $36.40

(b) The reinspection fee is $94 per occurrence.

(c) The after-hours inspection fee is $123 per hour, with a two-hour minimum.

(d) The fee for any permit issued after construction has begun shall be twice the amount of each fee listed above.

Section 6. Section 4-20-43, "Development Application Fees," B.R.C. 1981, is amended to read as follows:

4-20-43. Development Application Fees.

(b) Land use regulation fees:

(1) Applicant for a blue line amendment shall pay $524.

(2) An applicant for zoning of land to be annexed shall pay the following fees:

Feasibility study

Annexation feasibility study$2,100 ;b23; (Will apply as credit to initial annexation application fee if submitted within the same calendar year.)

Simple ~~Single family~~ Residential Detached Dwelling Unit

Initial application $5,000

Reapplication for same type of revision on same property within six months (if initial application is withdrawn or denied) $2,500

Standard

Initial application $15,000

Reapplication for same type of revision on same property within six months (if initial application is withdrawn or denied) $7,500

Complex

Initial application $20,000

Each additional annexation agreement $2,500

Reapplication for same type of revision on same property within six months (if initial application is withdrawn or denied) $10,000

Section 7. Section 4-20-44, “Cooperative Housing License Fee,” B.R.C. 1981, is amended to read as follows:

4-20-44. Floodplain Development Permits and Flood Control Variance Fees.

(a) If the floodplain development permit is for a development not located within the conveyance zone:

(1) An applicant for a floodplain development permit for the construction of a fence, or for flatwork, shall pay $35.

(2) An applicant for a floodplain development permit for construction of a shed, garage, deck, or for interior or exterior "rehabilitation" as defined in Section 9-16-1, "General Definitions," B.R.C. 1981, of an existing structure shall pay $85.

(3) An applicant for a floodplain development permit for improvements or additions to an existing structure not meeting the thresholds for "substantial damage," "substantial improvement" or "substantial modification" as defined in Section 9-16-1, "General Definitions," B.R.C. 1981, shall pay $350.

(4) An applicant for a floodplain development permit for work on an existing residential structure exceeding the threshold for "substantial damage," "substantial improvement" or "substantial modification" as defined in Section 9-16-1, "General Definitions," B.R.C. 1981, or any new ~~single family detached residential, new commercial, or mixed use, or attached~~

~~residential structure~~residential, commercial, or mixed-use structure elevated to flood protection elevation shall pay $700.

(5) An applicant for a floodplain development permit for an addition to an existing structure, "substantial improvement," "substantial modification" or construction of a new structure with "floodproofing" as that term is defined in Section 9-16-1, "General Definitions," B.R.C. 1981, shall pay $3,675.

(b) If the floodplain development permit is for a development located within the conveyance zone or the floodway:

(1) An applicant for a floodplain development permit where a floodplain analysis is not required shall pay $700.

(2) An applicant for a floodplain development permit where the city manager, pursuant to Paragraph 9-3-6(b)(3), B.R.C. 1981, requires the applicant to furnish a floodplain analysis, the applicant shall pay $3,600.

(c) An applicant for a floodplain development permit for an emergency operations plan shall pay:

(1) $700 for an evacuation plan.

(2) $1,400 for a shelter-in-place plan.

(d) An applicant for a floodplain development permit for a hazardous materials facility shall pay $700 for containment of hazardous materials or shall apply for elevation or floodproofing permits as described above.

(e) An applicant for a floodplain map revision shall pay:

(1) $700 for a map revision that involves fill.

(2) $3,600 for a map revision that includes a floodplain analysis.

(f) An applicant for a variance from the floodplain regulation provisions of Section 9-3-7, "Variances," B.R.C. 1981, shall pay $1,400.

(g) An applicant shall pay a revision fee of twenty-five percent of the application fee for review of revisions to items (a) through (f) of this section.

(h) An applicant for a floodplain information request shall pay $28 for each address.

Section 8. Section 4-20-69, “Cooperative Housing License Fee,” B.R.C. 1981, is amended to read as follows:

4-20-69. Reserved. ~~Cooperative Housing License Fee.~~[5]

~~The following fees shall be paid before the city manager issues, renews or recertifies a cooperative housing license or renew a rental license:~~

~~(a) $645 per license or renewal.~~

~~(b) To cover the cost of investigative inspections, the city manager will assess to licensees a $250 fee per inspection, where the city manager has performed an investigative inspection to ascertain compliance with or violations of Chapter 10-11 "Cooperative Housing," B.R.C. 1981.~~

Section 9. Section 4-22-6, "Conveyances to Which Chapter Not Applicable," B.R.C. 1981, is amended to read as follows:

4-22-6. Conveyances to Which Chapter Not Applicable.

Nothing in this chapter applies to the installation or operation of an elevator, dumbwaiter, materials lift, escalator or moving walk in a private residence. For purposes of this chapter, the term *private residence* means a dwelling unit regulated under the Residential Code of the City of Boulder. ~~which is occupied only by the members of a single family~~.

Section 10. Section 4-23-2, "Permit Issuance," B.R.C. 1981, is amended to read as follows:

4-23-2. Permit Issuance.

(a) Upon designation of a neighborhood permit parking zone pursuant to Section 2-2-15, "Neighborhood Permit Parking Zones," B.R.C. 1981, the city manager shall issue parking permits for vehicles owned by or in the custody of and regularly used by residents of such zone, by persons employed by a business located within such zone, and, if provided in the zone, by individual nonresidents upon receipt of a completed application therefor and payment of the fees prescribed in Section 4-20-49, "Neighborhood Parking Permit Fee," B.R.C. 1981.

(b) A vehicle displaying a valid permit or, for digital permits, with a valid permit in effect issued pursuant to this section may be parked in the zone specified in the permit without regard to the time limits prescribed for the zone.

[5] The coop sections of the code are based on allowing occupancies above five unrelated persons with special approval. This conflicts with the state law and thus, all coop sections are proposed for removal from the Boulder Revised Code. Occupancy within units would just have to meet the current International Property Maintenance Code (IPMC) occupancy limits that are based on established life safety standards as noted in the state law.

(c) Resident Permits. No more than two resident permits shall be in effect at any time for any person. No person shall be deemed a resident of more than one zone, and no more than one permit may be issued for any one vehicle even if persons residing in different zones share ownership or use. ~~Provided, however, that no more than a total of three resident permits may be issued for any dwelling unit housing a group of persons or organization licensed pursuant to Section 10-11-3, "Cooperative Housing Licenses," B.R.C. 1981.~~

(d) Resident permits issued under this section shall be specific for a single vehicle, shall not be transferred, and shall be displayed thereon only as the manager by regulation may prescribe. The permittee shall remove the permit from the vehicle if the vehicle is sold, leased or no longer in the custody of the permittee.

(e) Business Permits. Business, for the purpose of this chapter, includes nonresidential institutions, but does not include home occupations. Three business employee permits may be in effect at any time for any business without regard to number of employees or off-street parking. In the alternative, upon application by the manager of the business, the city manager may issue employee permits to a business according to the following formula: half of the number of full-time equivalent employees minus the number of off-street parking spaces under the control of the business at that location equals the maximum number of employee permits for the business. Full-time equivalent employees of the business are calculated based upon one such employee for every full forty hours worked at that location by employees of the business within the periods of time in a week during which the neighborhood permit parking restrictions are in effect. On its application, the employer shall designate the employee vehicles, not to exceed the number allowed, for which each permit is valid. A business permit is valid only for the vehicles listed thereon, and shall be displayed on the vehicle for which the permit is being used only as the manager by regulation may prescribe.

(f) The manager shall by regulation declare when the permit year shall begin for each neighborhood parking permit zone. Permits issued based on new applications submitted during the last month of a permit year shall also be valid for the succeeding permit year. Otherwise there shall be no proration of the fee.

(g) In considering applications for resident permits, the manager may require proof that the applicant has a legal right to possession of the premises claimed as a residence. If the manager has probable cause to believe that the occupancy limitations of Subsection 9-8-5(a), B.R.C. 1981, are being violated, no further permits shall be issued under this section for the residence in question until the occupancy thereof is brought into compliance.

(h) If the permit or the portion of the vehicle to which a resident permit has been affixed is damaged such that it must be replaced, the permittee, upon application therefor, shall be issued a replacement at a prorated cost. The manager may require display of the damaged permit before a new permit is issued.

(i) No person shall use or display any permit issued under this section in violation of any provision of this code.

(j) Commuter Permits. The maximum number of nonresident permits issued on any given block face within a zone shall be four. In addition, if the manager determines that the

average daily percentage of unoccupied neighborhood parking spaces, on block faces where commuter permits have been allocated, drops below twenty-five percent for four consecutive hours between the hours of 9:00 a.m. and 5:00 p.m. of any given weekday, then the manager shall reduce the number of commuter permits by a number estimated to maintain an average daily percentage of unoccupied neighborhood parking spaces of twenty-five percent. But for any part of Goss Street or Circle, Grove Street or Circle or the portions of 16th Street through 23rd Street between Arapahoe Avenue and Canyon Boulevard, included within any neighborhood parking permit zone, the average daily percentage of unoccupied neighborhood parking spaces which must be maintained without reduction in commuter permits shall be fifteen percent. The manager may also, for this Goss-Grove zone, allocate commuter permits initially to educational institutions and organizations representing postal workers in rough proportion to the needs of these groups. Such groups may renew such permits. Distribution of such permits by such groups to their clientele shall be at a price not to exceed the cost of the permit.

Section 11. Section 4-23-3, “Guest Permits,” B.R.C. 1981, is amended to read as follows:

4-23-3. Guest Permits.

Residents of a zone may obtain two two-week permits per year at no cost for use by houseguests of the resident. The permit shall be indelibly marked in the space provided thereon with, or for digital permits shall indicate, the date of its first use. The permit shall thereafter be valid only for the succeeding thirteen consecutive days. The manager may by regulation define the circumstances under which additional guest permits may be issued in cases of reasonable need consistent with residential use of the dwelling. ~~Provided, however, that no more than a total of six two-week guest permits per year may be issued for any dwelling unit licensed pursuant to Section 10-11-3, "Cooperative Housing Licenses," B.R.C. 1981.~~

Section 12. Section 4-30-3, “Permit Issuance,” B.R.C. 1981, is amended to read as follows:

4-30-3. Permit Issuance.

(a) Pursuant to Section 2-2-21, "Chautauqua Parking Management Plan," B.R.C. 1981 and unless delegated by regulation to Colorado Chautauqua Association, the city manager shall

issue and manage parking permits for vehicles owned by or in the custody of and regularly used by residents and lodgers of such zone, by persons employed by a business located within such zone, and if available as determined by the city manager, by resident guests upon receipt of a completed application. The permits shall be effective during the Season each year.

(b) A vehicle displaying a valid permit issued pursuant to this Section, may be parked in the zone specified in the permit without regard to the time limits prescribed for the zone. The city manager may provide for a mobile device system which does not require display of a permit.

(c) The permit requirement shall begin during the Season each year. Permits issued based on new applications submitted during the last month of a permit period, shall also be valid for the succeeding permit year. Otherwise there shall be no proration of the fee.

(d) Resident Permits. No more than two resident permits shall be in effect at any time for any cottage. No person shall be deemed a resident of more than one parking zone, and no more than one permit may be issued for any one vehicle, even if persons residing in different zones share ownership or use.

~~In considering applications for resident permits, the city manager may require proof that the applicant has a legal right to possession of the premises claimed as a residence. If the city manager has probable cause to believe that the occupancy limitations of Subsection 9-8-5(a), B.R.C. 1981, are being violated, no further permits shall be issued under this Section for the residence in question until the occupancy thereof is brought into compliance.~~ [6]

(e) Guest Permits. Residents may obtain a guest permit for use by their overnight guests. The permit shall be indelibly marked in the space provided, indicating dates of the visit and the license plate number of the guest vehicle, which shall not exceed two weeks. A guest permit shall not be used by a resident for their own vehicle. Such permit shall be issued to a resident demonstrating proof of residency who shall ensure that its use is consistent with the terms set forth in this Chapter and any other relevant rules or regulations. The number of available guest permits shall be determined by the city manager.

(f) Lodger Permits. Lodger permits are only available to lodgers who rent cottages without off-street parking or rooms at lodges owned by Colorado Chautauqua Association.

(g) Business Permits. Business permits are only available to businesses for issuance to their employees. The number of available business permits shall be determined by the city manager.

(h) No person shall use or display any permit issued under this Section in violation of any provision of this code or associated rule or regulation.

[6] Zoning related occupancy limits stated in Section 9-8-5 based on the number of unrelated persons will be going away so this section is no longer necessary.

Section 13. Section 5-9-2, "Definitions," B.R.C. 1981, is amended to read as follows:

5-9-2. Definitions.

As used in this chapter, the following words are defined to mean:

Commercial district or *commercial zone* or *commercial* means any area zoned A, BCS, BMS, BC, MU, P, BT, BR or DT.

Group living arrangement means those group residencies in which one or more ~~the~~ individuals ~~or family~~ live~~s~~ in a room or rooms of their own, but which contains common dining facilities and where decisions concerning the use of common areas for social events are shared among the individual residents. These include, without limitation, ~~cooperative housing units,~~ congregate or residential care facilities, rooming houses, dormitories, fraternities and sororities, as those terms are used in Title 9, "Land Use Code," B.R.C. 1981. These exclude buildings where people only reside temporarily such as hotels, motels or bed and breakfasts and buildings where each person resides in and controls a complete dwelling unit, including, ~~without limitation, duplexes, triplexes, fourplexes, apartment buildings and condominiums~~multi-unit dwellings.

Industrial district or *industrial zone* or *industrial* means any zoning district in the industrial classification of Table 5-1 in Section 9-5-2, B.R.C., 1981.~~area zoned IG, IM, IS, or IMS~~.[7]

Light construction work means work which uses only hand tools and power tools of no more than five horsepower, but not including power actuated fastening devices (e.g., nail guns).

Residential district or *residential zone* or *residential* means any zoning district in the residential classification of Table 5-1 in Section 9-5-2, B.R.C., 1981.~~area zoned RE, RH-1, RH-2, RH-3, RH-4, RH-5, RL, MH, RM, RMX, RR-1, or RR-2~~.[8]

Zoned means classified into one of the zoning districts specified in Section 9-5-2, "Zoning Districts," B.R.C. 1981, as shown on the zoning map adopted by Section 9-5-3, "Zoning Map," B.R.C. 1981. Each district includes all areas zoned under the same prefix (i.e., RL includes RL-1 and RL-2). If new districts are established without amendment to this section, it is intended that the new district be governed under this chapter as if in the existing district which it most closely resembles, and if it could as easily be in one category or another, that it be in the category with the lower allowable decibel levels.

[7] This change simplifies the references to the existing industrial zoning districts. If new zones are every added, this section wouldn't have to be updated each time.

[8] This change simplifies the references to the existing residential zoning districts. If new zones are every added, this section wouldn't have to be updated each time.

Section 14. Section 6-1-12(b), "Damaging Prairie Dog Burrows Prohibited," B.R.C. 1981, is amended to read as follows:

6-1-12. Damaging Prairie Dog Burrows Prohibited.

(a) Except as authorized by other provisions of this chapter, no person shall damage any prairie dog burrow.

(b) It shall be an affirmative defense to a violation of this section that:

(1) The burrow was uninhabited when it was damaged;

(2) A state permitted relocator had, within the twelve previous months, attempted to relocate all prairie dogs utilizing that burrow, whether or not all those prairie dogs were successfully captured and relocated;

(3) The burrow was damaged by a person who owned, or was responsible for operating, an airport facility or by a person who was acting at the direction of the owner of an airport facility and the activity that damaged the burrow was necessary in order to promote human safety or in order to comply with Federal Aviation Administration standards or regulations;

(4) The burrow was damaged in connection with temporary disturbances caused by public or utility-related projects where such activities were conducted in conformity with best management practices within an area containing prairie dog habitat;

(5) The burrow was damaged by a person who owned, or was responsible for operating, a dam or other existing structure where the structural integrity or the safety of the dam or structure was threatened by the burrow or by burrowing;

(6) The burrow was on the property of a ~~single-family residence~~detached dwelling unit in which the person who destroyed the burrow, or authorized its destruction, was residing;

(7) Activities were undertaken by a permitted academic investigator or by a city or state employee while in the process of bona fide research related to animal control or protection issues;

(8) The burrow was damaged during the process of utilizing lethal means of control in conformity with the provisions of this chapter; or

(9) The burrow was damaged in connection with an ongoing and continuous program approved by the city manager that was designed to prevent recolonization of lands from which prairie dogs had previously been lawfully removed, but only where such program had been initiated immediately following the lawful removal.

Section 15. Section 6-1-36(h), "Procedures for Obtaining Prairie Dog Lethal Control Permits," B.R.C. 1981, is amended to read as follows:

6-1-36. Procedures for Obtaining Prairie Dog Lethal Control Permits.

…

(h) Owners or occupants of residential lots containing a detached dwelling unit ~~single residence~~ may, at any time, obtain a lethal control permit to exterminate prairie dogs on their property. No fee shall be charged for such a lethal control permit and no waiting period longer than that period of time reasonably required to process an application shall be required.

(1) The intent of the permit process for such residential lots is to provide a mechanism for the city to monitor prairie dog populations and related ecological issues within its boundaries while allowing owners or occupants of small residential lots to respond to the presence of unwanted wildlife.

(2) Applications for a lethal control permit for such residential lots shall be approved upon receipt of the following information:

(A) Address of the subject property;

(B) The name and telephone number of the applicant;

(C) The date of application;

(D) A demonstration of compliance with any applicable state and federal regulations pertaining to the utilization of lethal control measures; and

(E) Such other information as the manager may require to adequately evaluate such requests, their purposes, and the expected outcomes of the use of lethal control measures.

(3) Lots containing multi-~~family~~ unit residential structures shall not qualify for treatment under this subsection.

Section 16. Section 6-3-3, "Accumulation of Trash, Recyclables, and Compostables Prohibited," B.R.C. 1981, is amended to read as follows:

6-3-3. Accumulation of Trash, Recyclables, and Compostables Prohibited.

(a) No owner of any vacant land or property; occupant, owner, or manager of any ~~single-family~~detached dwelling unit or similar property; owner, manager, or operator of any mult~~iple family -~~unit dwelling, private club, or similar property; or owner, operator, manager, or employee of any commercial or industrial establishment or similar property shall fail to:

(1) Prevent the accumulation of trash, recyclables, and compostables that are visible to the public on such property and on the public right-of-way adjacent to the property;

(2) Remove trash, recyclables, and compostables located on such property and on the public right-of-way adjacent to the property;

(3) Remove trash frequently enough so that it does not cause putrid odors on the property;

(4) Remove or repair broken or damaged windows located on such property. However, it shall be an affirmative defense to a violation of this provision that a person is a tenant who, under the terms of the tenancy, is not responsible for the maintenance of that property and who failed to address a particular maintenance issue for that reason;

(5) Remove accumulated newspapers or other periodical publications from such property when such accumulated newspapers or publications are visible to the public and remain so for a period of more than twenty-four hours. It shall be an affirmative defense to any alleged violation of this paragraph that no more than three such newspapers or periodicals were accumulated for each residential unit or each business entity located on the property and that no newspaper or periodical more than three days old is located on the property; and

(6) Sufficiently bundle or contain recyclable materials so that those materials are not scattered onto the public right-of-way or onto other properties.

(b) No owner of any property shall fail to maintain in effect a current and valid contract with one or more haulers providing for the removal of accumulated trash, recyclables and compostables from the property, which contract shall provide for sufficient trash, recyclables and compostable materials hauling to accommodate the regular accumulation of trash, recyclables and compostables from the property. Properties containing one or more rental dwelling units shall maintain a contract for the collection of trash no less frequently than on a biweekly basis.

(c) No property owner or contractor in charge of any construction site or responsible for any construction activity shall fail to:

(1) Prevent trash from being scattered onto the public right-of-way or onto other properties; and

(2) Ensure that all trash generated by construction and related activities or located on the site of construction projects is picked up at the end of each workday and placed in containers sufficient to prevent such trash from being scattered onto the public right-of-way or onto other properties.

(d) No owner, operator, or manager of any restaurant, brewpub, tavern, or any other business shall fail to:

(1) Prevent trash from being scattered from the business property onto the public right-of-way or onto other properties; and

(2) Remove or cause to remove immediately after closing all trash located on an outdoor seating area of the establishment and on the public right-of-way adjacent to the establishment.

(e) If the city manager finds a violation of any provision of this section, the manager, after notice and an opportunity for hearing under the procedures prescribed by Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, may impose a civil penalty according to the following schedule:

(1) For the first violation of the provision, $100;

(2) For the second violation of the same provision, $250;

(3) For the third violation of the same provision, $500; and

(4) The hearing officer may adjust the penalty, based on evidence presented at a hearing.

(f) The city manager's authority under this section is in addition to any other authority the manager has to 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 manager shall not preclude resorting to any other remedy as well.

(g) Notice under this subsection is sufficient if hand delivered, emailed, mailed, or telephoned to such person, or by posting on the premises.

Section 17. Section 6-3-4, “Containers Required,” B.R.C. 1981, is amended to read as follows:

6-3-4. Containers Required.

No owner or occupant of any ~~single-family~~detached dwelling unit; owner or manager of any multi~~ple-family~~-unit dwelling or private club; or owner, operator, or manager of any business; or any similar property shall fail to provide at all times one or more trash containers on such property. Such containers shall be of a size sufficient to accommodate the regular accumulation of trash from the property.

Section 18. Section 6-3-12, “Bear-Resistant Containers Required,” B.R.C. 1981, is amended to read as follows:

6-3-12. Bear-Resistant Containers Required.

(a) No private owner, agent appointed pursuant to Section 10-3-14, "Local Agent Required," B.R.C. 1981, or manager of any property, lessee leasing the entire premises, or adult occupant of a ~~single-family~~detached dwelling unit, a duplex, a triplex, or a fourplex shall fail to keep all refuse attractants in bear resistant enclosures, in bear resistant containers, bear resistant dumpsters or securely stored within a house, garage, shed or other structure at least as secure as a bear resistant enclosure at all times, except when being transported from a house, garage or bear resistant enclosure for pickup. Refuse attractants transported for pickup not in a bear resistant container shall be attended, by a person remaining within 15 feet of the container at all times. It is not a defense to a violation of this section that a container or enclosure was damaged and the owner had not received the notice under subsection (d) below.

(b) No person shall place into the public right-of-way or front yard setback any bear-resistant container that is not securely closed, regardless of whether it contains refuse attractants.

(c) This section shall apply to the area bounded by Broadway Street, the city's southern boundary, the city's western boundary and a line extended from Sumac Avenue due west through Wonderland Lake Park. Provided that the city manager may extend the area by rule adopted pursuant to Section 6-3-11 "City Manager Authorized to Issue Rules," B.R.C. 1981.

(d) No private owner, agent appointed pursuant to Section 10-3-14, "Local Agent Required," B.R.C. 1981, or manager of any property, lessee leasing the entire premises, or adult occupant of a ~~single-family~~detached dwelling unit, a duplex, a triplex, or a fourplex shall fail to repair a damaged container or enclosure within seventy-two hours after written notification by any city official, or such other time designated in the notice by the city official.

(e) If the city manager finds a violation of any provision of this section, the manager, after notice and an opportunity for hearing under the procedures prescribed by Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, may impose a civil penalty according to the following schedule:

(1) For the first violation of the provision, $100.00;

(2) For the second violation of the same provision, $250.00;

(3) For the third violation of the same provision, $500.00; and

(4) The hearing officer may adjust the penalty, based on evidence presented at a hearing.

(f) The city manager's authority under this section is in addition to any other authority the manager has to 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 manager shall not preclude resorting to any other remedy as well.

(g) 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.

(h) Notice under this subsection is sufficient if hand delivered, emailed, mailed, or telephoned to such person, or by posting on the premises.

Section 19. Section 6-4-9, "Entryway," B.R.C. 1981, is amended to read as follows:

6-4-9. Entryway.

(a) No person shall smoke within any entryway of a building, enclosed area, or common entrance to a ~~multifamily~~ multi-unit dwelling, except a ~~single-family~~detached dwelling unit.

(b) No owner, principal manager, proprietor, or any other person in control of a business shall fail to ensure compliance of this section by subordinates, employees, and agents.

Section 20. Section 6-10-11(g), "Pre-Application Notification of Airborne Application," B.R.C. 1981, is amended to read as follows:

6-10-11(g). Pre-Application Notification of Airborne Application.

(g) If a commercial property or an attached (i.e., multi-~~family~~unit) residential dwelling is located adjacent to property on which an airborne application of any pesticide is to occur as set forth above, no contracting party or other user of pesticides shall fail to make a reasonable attempt to notify the owner or manager of the property at least forty-eight hours prior to the pesticide application. Upon receipt of such notice, such owner or manager shall not fail to post in a prominent place the information that the adjacent property will be treated.

Section 21. Section 6-12-2, "Definitions," B.R.C. 1981, is amended to read as follows:

~~Multifamily~~ Multi-unit customer means the ~~occupants~~residents, taken together, of a residential building or set of residential buildings that uses a collective, common system for the collection of trash generated by the ~~occupants~~residents.

Section 22. Section 6-12-5, “Disposition of Recyclable or Compostable Materials,” B.R.C. 1981, is amended to read as follows:

6-12-5. Containers for Recycling or Composting Collection.

(a) Haulers providing trash collection service to multi-unit ~~family~~ customers through centralized collection areas shall provide containers for recyclable materials at no additional charge. Containers shall be of a sufficient size to accommodate the regular accumulation of recyclables from that customer, but, at a minimum, such containers shall be of a volume equal to one-half of the volume of the trash collection service. If the city manager requires the collection of compostables, haulers shall provide containers for that service of a sufficient size to accommodate the regular accumulation of compostables from that customer.

(b) Haulers providing trash collection service to residential customers are not required to provide recyclables or compostables containers. However, if the hauler requires a specific type of container, then the hauler shall deliver such container at no cost to the residential customer. This provision does not apply to any container required by the city pursuant to Section 6-3-12, "Bear-Resistant Containers," B.R.C. 1981.

Section 23. Section 6-12-6, “Disposition of Recyclable or Compostable Materials,” B.R.C. 1981, is amended to read as follows:

6-12-6. Disposition of Recyclable or Compostable Materials.

(a) No person other than the person placing the recyclables or compostables for collection or that person's designated hauler shall take physical possession of any recyclables or compostables separated from trash, set out in the vicinity of the curb or alleys, and plainly marked for recyclables or compostables collection.

(b) Each property owner, property manager, residential customer, commercial customer, or multi-unit ~~family~~ customer shall relinquish recyclable materials to a hauler only on the condition that the hauler deliver the recyclable materials only to a recyclables processing center as set forth in subparagraph (c) below.

(c) It shall be presumed that each property owner, property manager, residential customer, commercial customer or multifamily customer has designated both single stream and source-separated, clean fiber recyclable materials as defined by city manager rules to be hauled to the recyclables processing center owned by Boulder County or its successor in interest ("Boulder County Recycling Center"). The City Manager may designate conditions under which the presumption in this subsection (c) shall not apply with respect to source-separated, clean fiber recyclable materials.

(d) Haulers shall take all compostable materials collected to a compost facility that is in compliance with state composting regulations and can certify that the material is processed into a compost or biogas product. Alternatively, haulers may deliver compostable materials to a facility that repurposes the materials for beneficial uses,

such as feeding animals, if the facility is in compliance with all federal, state and local laws. Haulers shall maintain receipts and records for a period of five years. Upon request by any customer or the city manager, haulers shall produce receipts from the facility utilized.

Section 24. Section 7-6-14, "Unauthorized Parking Prohibited," B.R.C. 1981, is amended to read as follows:

7-6-14. Unauthorized Parking Prohibited.

(a) No vehicle shall be parked upon any public or private property without the express or implied consent of the owner, lessee or occupant of the property or for a time period in excess of or in a manner other than that for which consent was given by such person.

(b) For the purposes of this section, there is an implied consent to park in areas set aside for parking on any private or public property except on property used as a ~~single-family residence~~detached dwelling unit, but such implied consent is deemed revoked with respect to any person who has parked a vehicle or has allowed a vehicle to remain parked in disregard of or contrary to the direction or intended function of any of the following:

(1) A parking attendant, a card or coin-operated gate or any other means calculated to bar or otherwise control entrance onto or use of the property by unauthorized vehicles;

(2) Parking meters or pay stations located on the property;

(3) Signs or pavement markings located on the property indicating a limitation or prohibition on parking thereupon or that a parking fee must be paid, if the signs or markings:

(A) Clearly indicate, in not less than one-inch-high lettering on a sign or twelve-inch-high lettering or symbols on the pavement, the limitation, prohibition or fee schedule and method of payment;

(B) Are located in or near the area where the limitation, prohibition or fee applies; and

(C) Are located so as to be seen by an ordinarily observant person; or

(4) Any other method of express revocation of implied consent communicated directly to the owner or driver of the vehicle by the owner of the property or the owner's authorized agent.

Section 25. Section 7-6-24, "All-Night Parking of Commercial Vehicle, Camper or Motor Home, or Trailer Prohibited," B.R.C. 1981, is amended to read as follows:

7-6-24. All-Night Parking of Commercial Vehicle, Camper or Motor Home, or Trailer

Prohibited.

(a) No commercial vehicle shall be parked on any street in any district of the city zoned RR-1, RR-2, RE, RL-1, RL-2, RM-1, RM-2, RM-3, RMX-1, RMX-2, RH-1, RH-2, RH-3, RH-4, RH-5, RH-6, RH-7[9], MH, P, or A for more than thirty minutes between 8 p.m. and 7 a.m. The penalty for a first violation of this section is $40. The penalty for a second violation of this section by the same vehicle or the same registered owner of a vehicle is $50. The penalty for a third and any subsequent violation of this section by the same vehicle or the same registered owner of a vehicle is $60.

(b) No camper, motor home, or trailer shall be parked on any street except as follows:

(1) When located directly on a street frontage of the ~~single-family~~detached dwelling unit or multi-~~family~~ unit dwelling of the vehicle's registered owner for a consecutive period of forty-eight hours or less; or

(2) For a maximum of seventy-two hours when providing a service to a residence or business located directly adjacent to the parked vehicle; or

(3) In compliance with the terms and conditions of a permit issued by the city manager; or

(4) The penalty for a first violation of this section is $40. The penalty for a second violation of this section by the same vehicle or the same registered owner of a vehicle is $50. The penalty for a third and any subsequent violation of this section by the same vehicle or the same registered owner of a vehicle is $60.

(c) It shall not be a defense to this section that the camper, motor home, or trailer has been moved to a different location on any street. To be in compliance with this section, the vehicle must be removed from the street.

Section 26. Section 7-7-5, "Private Towing and Impounding of Vehicle Parked Without Authorization on Private Property," B.R.C. 1981, is amended to read as follows:

7-7-5. Private Towing and Impounding of Vehicle Parked Without Authorization on Private Property.

(a) The owner or lessee of real property or an agent authorized by the owner or lessee may cause any motor vehicle, parked on such property without the permission of the owner, lessee or occupant of the property, to be removed or impounded by a towing carrier, but, except on property used as a ~~single-family residence~~detached dwelling unit, only if any applicable requirements of Subsection 7-6-14(b), B.R.C. 1981, and subsection (b) of this section have been met. It is not necessary that a citation be issued for violation of Section 7-

[9] These zones are relatively new and are added here for consistency.

6-14, "Unauthorized Parking Prohibited," B.R.C. 1981, for a vehicle to be removed or impounded pursuant to this section.

(b) Except on property used as a ~~single-family residence~~detached dwelling unit, the owner, lessee or occupant of real property or an agent thereof, prior to causing the removal and impoundment of a motor vehicle from any area set aside for motor vehicle parking on such person's property, shall:

(1) Provide clear notice on signs or pavement markings meeting the requirements of Paragraph 7-6-14(b)(3), B.R.C. 1981, that unauthorized vehicles will be towed away at the owner's expense, including the name and telephone number of each towing company authorized to remove any vehicle;

(A) Provided however, after April 1, 2019, all such signs shall include a symbol depicting a tow truck towing a car as set forth in regulations adopted by the city manager; and

(B) The requirements of subsection (A) above shall not apply to commercial non-residential properties except for external remodel, change of ownership and new construction; and

(C) The requirements of subsection (A) shall not apply to residential properties unless there are more than five tows in any twelve-month period or there is an external remodel, change of ownership or new construction.

(2) Not receive any payment monetary or otherwise from any towing company.

(c) A vehicle parked on private property in violation of Section 7-6-14, "Unauthorized Parking Prohibited," B.R.C. 1981, is subject to immediate towing under state law as an abandoned vehicle on private property if the provisions of subsection (b) of this section are also met. Furthermore, any motor vehicle left unattended on private property for a period of twenty-four hours or longer without the consent of the owner or lessee of such property or the owner's or lessee's legally authorized agent is also subject to immediate towing under state law as an abandoned vehicle on private property.

(d) Vehicles towed pursuant to this section are privately impounded. All actions by the towing carrier and others shall be in accordance with and pursuant to the state statutes and regulations governing private tows of abandoned vehicles and pursuant to Section 7-7-11, "Towing Regulations," B.R.C. 1981.

(e) Disputes concerning the propriety of impoundments under this section shall be settled by the parties involved in the civil courts, and the city shall not be a proper party defendant in any such suit.

Section 27. Section 8-2-13, “Duty to Keep Sidewalks Clear of Snow,” B.R.C. 1981, is amended to read as follows:

8-2-13. Duty to Keep Sidewalks Clear of Snow.

(a) Removal of Snow, Ice, and Sleet from Sidewalks Required. No private owner, agent appointed pursuant to Section 10-3-14, "Local Agent Required," B.R.C. 1981, or manager of any property, lessee leasing the entire premises, or adult occupant of a ~~single-family~~detached dwelling unit, a duplex, a triplex, or a fourplex shall fail to keep all public sidewalks and walkways abutting the premises such person owns, leases, or occupies clear of snow, ice, and sleet, as provided in this section. Such persons are jointly and severally liable for such responsibility, criminally and administratively. Such persons shall remove any accumulation after any snowfall or snowdrift as promptly as reasonably possible and no later than twenty-four hours after the snowfall or the formation of the snowdrift. Such persons shall remove the snow, ice, or sleet from the full width of all sidewalks and walkways, except those with a width exceeding five feet, which must be cleared to a width of at least five feet.

(b) City Manager Authorized to Correct Hazardous Situations on Sidewalks With Snow, Ice, or Sleet. The city manager has the authority to cause any sidewalk to be cleared of snow, ice, and sleet. If the city manager intends to charge any person responsible for keeping public sidewalks and walkways abutting the premises clear of snow, ice, and sleet, the manager will satisfy the requirements of this section.

(c) Findings and Notice. If the city manager finds that any portion of a sidewalk or walkway has not been cleared of snow, ice, and sleet as required by Subsection (a) of this section and that a hazardous condition exists, the manager is authorized to charge the costs of clearing the snow, ice, or sleet to the person responsible under this section.

(1) The city manager will notify the owner, agent appointed pursuant to Section 10-3-14, "Local Agent Required," B.R.C. 1981, or manager of any property, the lessee leasing the entire premises or any adult occupant of a ~~single-family~~detached dwelling unit, a duplex, a triplex, or a fourplex, that such person must remove the snow within the earlier of twenty-four hours or 12 noon of the day following the notice.

Section 29. Section 8-9-2, “Definitions,” B.R.C. 1981, is amended to reach as follows:

~~Multifamily residential means all other residential not included in the definition of single family residential as defined in this section.~~

~~Single family residential means a single family detached dwelling unit, single family attached dwelling unit that is townhouse or a duplex, or mobile home.~~[10]

[10] These definitions are proposed for removal since they use the term “family” but more importantly that they are not even used in the chapter.

Section 30. Section 9-2-3, “Variances and Interpretations,” B.R.C. 1981, is amended to read as follows:

9-2-3. Variances and Interpretations.

(a) Purpose: This section identifies those standards that can be varied by either the city manager or the Board of Zoning Adjustment (BOZA). Some standards can be varied by the city manager through an administrative Review process, others by BOZA by another level of administrative Review. The city manager may defer any administrative decision pursuant to this section to BOZA. This section also identifies which city manager interpretations of this title may be appealed to BOZA and establishes a process for such appeals.

(b) Interpretations: The city manager may decide questions of interpretation and application of the regulations of this title as a ministerial function. Interpretations made by the city manager of Chapters 9-6, "Use Standards," 9-7, "Form and Bulk Standards," and 9-8, "Intensity Standards," B.R.C. 1981, may be appealed to the BOZA by filing an application in compliance with this section.

(1) Planning Board Call-Up: A member of the planning board may call-up any interpretation of the BOZA through the procedures of Section 9-4-4, "Appeals, Call-Ups, and Public Hearings," B.R.C. 1981. The planning board may consider the record, or any portion thereof, of the hearing before the BOZA in its consideration of the matter.

(2) City Council Call-Up: The city council may call-up for review any interpretation of the BOZA upon which the planning board has acted pursuant to the procedures of Section 9-4-4, "Appeals, Call-Ups and Public Hearings," B.R.C. 1981. The council may consider the record, or any portion thereof, of the hearing before the planning board in its consideration of the matter.

(c) Administrative Variances: The city manager may grant a variance from:

(1) The minimum yard setback requirement and the building separation requirements of Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, of up to twenty percent of the required yard setback, if the manager finds that the application satisfies all of the requirements in Subsection (h) of this section and if the applicant obtains the written approvals of impacted property owners.

(2) The minimum requirements of Section 9-7-9, "Side Yard Bulk Plane," and Section 9-7-10, "Side Yard Wall Articulation," for lots 4,600 square feet or less or for lots forty-eight feet in width or less based on the average lot width measured at the front yard setback, midpoint of the lot and the rear yard setback, if the city manager finds that the application satisfies all of the requirements of Paragraph (h)(5) of this section.

(3) The minimum requirements of Section 9-7-11, "Maximum Building Coverage," and Section 9-8-2, "Floor Area Ratio Requirements," to existing ~~single-family~~detached dwelling units, by up to two hundred square feet. The purpose of this administrative variance is to permit minor modifications to ~~single-family~~detached dwelling units that will allow residents or a family member of a head of household with existing or anticipated impairments that restricts their ability to perform a major life activity to be in the home. This variance may be granted if the city manager finds that:

(A) The request meets the requirements of Subparagraphs (h)(5)(A) and (B) of this section; and

(B) The improvements are necessary to remedy any impairment, or anticipated impairment, that would prohibit or significantly restrict a resident's or a family member of a head of household's ability to perform a major life activity as compared to the ability of the average person in the general population to perform the same activity.

(4) The height of the plane above a side lot line in bulk plane requirements of Section 9-7-9, "Side Yard Bulk Plane," B.R.C. 1981, and the side yard wall articulation standards of Section 9-7-10, "Side Yard Wall Articulation Standards," B.R.C. 1981, may vary by up to twenty percent and the building coverage requirements of Section 9-7-11, "Maximum Building Coverage," or the floor area ratio requirements of Section 9-8-2, "Floor Area Ratio Requirements," by up to two hundred square feet for existing ~~single-family~~detached dwelling units if the manager finds that the application satisfies all of the requirements in Subsection (h) of this section.

(5) Maximum variance that may be granted to a lot under paragraph (3) or (4) above shall be a total of two hundred square feet of floor area or building coverage.

(6) If written approvals of impacted property owners cannot be obtained, the applicant may apply for consideration of the variance before the BOZA.

(7) Applicants shall apply for the variance on a form provided by the city manager and shall pay the application fee required by title 4, "Licenses and Permits," B.R.C. 1981, at time of submittal of the application.

(8) The city manager may also grant variances or refer variance requests to the BOZA to allow development not in conformance with the provisions of this title which otherwise would result in a violation of federal or state legislation or regulation, including but not limited to the Federal Fair Housing Act or the Americans with Disabilities Act.

Section 31. Section 9-3-11, “Medium Density Overlay Zone,” B.R.C. 1981, is amended to read as follows:

9-3-11. Medium Density Overlay Zone.

(a) Purpose and Scope: Medium density residential areas adjacent to the downtown central business district originally developed with a ~~predominantly single-family~~ character predominately composed of detached dwelling units and are now redeveloping with higher densities. Development and redevelopment in certain RM-2 and RM-3 zoning districts has been very disruptive of the existing residential character of those areas, has failed to preserve certain historic structures, has led to many inappropriate structures being erected and thus has negatively affected the value of adjoining properties. The medium density overlay zone map which designates those portions of the medium density areas to which this section applies is set forth as ~~appendix~~ Appendix D, "Medium Density Overlay Zone," of this title.

(b) Additional Regulations: The following additional regulations shall apply in the medium density residential overlay zone:

(1) No person shall construct a second detached dwelling on a lot as set forth in Section 9-7-12, "Two Detached Dwellings on a Single Lot," B.R.C. 1981.

(2) No person shall create additional multi~~ple~~ dwelling units except that one additional dwelling unit per lot may be created by internal conversions of existing principal structures that are not enlarged in size subsequent to September 2, 1993, and provided that such conversions do not involve exterior modifications other than for access, including, without limitation, doors, windows and stairways.

Section 32. Section 9-3-12, “Opportunity Zone Overlay,” B.R.C. 1981, is amended to read as follows:

9-3-12. Opportunity Zone Overlay.

(a) Legislative Intent: The purpose of this section is to enact an overlay zone for Census Tract 122.03, described in Appendix O, "Census Tract 122.03," and associated standards in order to protect the public health, safety and welfare:

(1) Federal Census Tract 122.03 was certified by the federal government as an opportunity zone;

(2) Investors in the opportunity zone, through opportunity zone funds, will receive favorable tax relief as an incentive to invest in business and real estate within Census Tract 122.03;

(3) It is anticipated that opportunity zone funds may lead to accelerated investment in Census Tract 122.03;

(4) The Boulder Valley Comprehensive Plan provides that the city will work with neighborhoods to protect and enhance neighborhood character and livability and preserve the relative affordability of existing housing stock;

(5) The Boulder Valley Comprehensive Plan describes that the city will make special efforts to preserve and rehabilitate existing housing servicing low-, moderate-, and middle-income households; and

(6) It is the intent of this section to prevent accelerated demolition of the existing relatively affordable multi-~~family~~ unit dwelling housing stock in Census Tract 122.03 to protect existing neighborhood character in this area and preserve the existing housing stock and its relative affordability.

(b) Applicability of this Section: The standards of this section shall apply during that period of time that Census Track 122.03 is a qualified opportunity zone, as that term is defined in 26 U.S.C. § 1400Z-1, or any successor legislation.

(c) No Demolition: Except as expressly allowed under subsection (e), no person shall carry out or permit demolition of a building or part thereof that results in removal of any attached dwelling unit in Census Tract 122.03.

(d) No Demolition Applications: The city manager shall not accept any demolition or development application that proposes the demolition of a building or a part thereof and results in removal of any attached dwelling unit in Census Tract 122.03 unless the application proposes work allowed under subsection (e).

(e) Unsafe Buildings: As an exception to the standards of this section, a building or part thereof may be demolished if the city manager has declared the building or relevant part thereof to be unsafe or dangerous to the general public, ~~occupants~~residents, or property or otherwise unfit for human occupancy, and such that it is unreasonable to repair the structure or relevant part thereof. In making such determination, the city manager will consider the deficiencies of the structure or part thereof, including without limitation, damage, decay, faulty construction, potential for collapse, disrepair or the presence of health and safety concerns such as unsanitary conditions, infestation of rats or vermin, the presence of filth and contamination, or other conditions that constitute a hazard to ~~occupants~~ residents or the public.

(f) Maintenance: The city council intends to preserve from deliberate or inadvertent neglect attached dwelling units in Census Tract 122.03. No owner, lessee or occupant of an attached dwelling unit shall fail to comply with the ordinances of the city regulating property maintenance, including without limitation Chapter 10-2, "Property Maintenance Code," B.R.C. 1981.

Section 33. Section 9-5-2, “Zoning Districts,” B.R.C. 1981, is amended to read as follows:

9-5-2. Zoning Districts.

(a) Classification: Zoning districts are classified according to the following classifications based on the predominant character of development and current or intended use in an area of the community:

(1) R: Residential;

(2) M: Mixed Use, a mix of residential and business;

(3) B: Business;

(4) DT: Downtown business zones;

(5) I: Industrial;

(6) P: Public;

(7) A: Agricultural.

(b) Zoning Districts: Under the classifications defined in Subsection (a) of this section, the particular zoning districts established for the city are as in table 5-1 of this section:

TABLE 5-1: ZONING DISTRICTS

Classification	***Zoning District (Abbreviation)***	***Use Module***	***Form Module***	***Intensity Module***	***Former Zoning District Abbreviation***
Residential	Residential - Rural 1 (RR-1)	R1	a	2	RR-E
	Residential - Rural 2 (RR-2)	R1	b	2	RR1-E
	Residential - Estate (RE)	R1	b	3	ER-E
	Residential - Low 1 (RL-1)	R1	d	4	LR-E
	Residential - Low 2 (RL-2)	R2	g	6	LR-D
	Residential - Medium 1 (RM-1)	R3	g	9	MR-D
	Residential - Medium 2 (RM-2)	R2	d	13	MR-E
	Residential - Medium 3 (RM-3)	R3	j	13	MR-X
	Residential - Mixed 1 (RMX-1)	R4	d	7	MXR-E
	Residential - Mixed 2 (RMX-2)	R5	k	8	MXR-D
	Residential - High 1 (RH-1)	R6	j	12	HR-X

	Residential - High 2 (RH-2)	R6	c	12	HZ-E
	Residential - High 3 (RH-3)	R7	l	14	HR1-X
	Residential - High 4 (RH-4)	R6	h	15	HR-D
	Residential - High 5 (RH-5)	R6	c	19	HR-E
	Residential - High 6 (RH-6)	R8	j	17.5	-
	Residential - High 7 (RH-7)	R7	l	14.5	-
	Mobile Home (MH)	MH	s	-	MH-E
Mixed Use	Mixed Use 1 (MU-1)	M2	i	18	MU-D
	Mixed Use 2 (MU-2)	M3	r	18	RMS-X
	Mixed Use 3 (MU-3)	M1	n	24	MU-X
	Mixed Use 4 (MU-4)	M4	o	24.5	-
Business	Business - Transitional 1 (BT-1)	B1	f	15	TB-D
	Business - Transitional 2 (BT-2)	B1	e	21	TB-E
	Business - Main Street (BMS)	B2	o	17	BMS-X
	Business - Community 1 (BC-1)	B3	f	19	CB-D
	Business - Community 2 (BC-2)	B3	f	19	CB-E
	Business - Commercial Services (BCS)	B4	m	28	CS-E
	Business - Regional 1 (BR-1)	B5	f	23	RB-E
	Business - Regional 2 (BR-2)	B5	f	16	RB-D
Downtown	Downtown 1 (DT-1)	D3	p	25	RB3-X/E
	Downtown 2 (DT-2)	D3	p	26	RB2-X
	Downtown 3 (DT-3)	D3	p	27	RB2-E
	Downtown 4 (DT-4)	D1	q	27	RB1-E
	Downtown 5 (DT-5)	D2	p	27	RB1-X
Industrial	Industrial - Service 1 (IS-1)	I1	f	11	IS-E
	Industrial - Service 2 (IS-2)	I1	f	10	IS-D
	Industrial - General (IG)	I2	f	22	IG-E/D

	Industrial - Manufacturing (IM)	I3	f	20	IM-E/D
	Industrial - Mixed Services (IMS)	I4	r	18	IMS-X
Public	Public (P)	P	c	5	P-E
Agricultural	Agricultural (A)	A	a	1	A-E
Flex District	Flex (F)	TBD	TBD	TBD	n/a

(c) Zoning District Purposes:

(1) Residential Districts and Complementary Uses:

(A) Residential - Rural 1, Residential - Rural 2, Residential - Estate, and Residential - Low 1: Primarily ~~single-family~~ detached dwelling units with some duplexes and attached dwelling units at low to very low residential densities.

(B) Residential - Low 2, and Residential - Medium 2: Medium density residential areas primarily used for small-lot residential development, including without limitation, duplexes, triplexes, or townhouses, where each unit generally has direct access at ground level.

(C) Residential - Medium 1, and Residential - Medium 3: Medium density residential areas which have been or are to be primarily used for attached residential development, where each unit generally has direct access to ground level, and where complementary uses may be permitted under certain conditions.

(D) Residential - Mixed 1: Mixed density residential areas with a variety of ~~single-family,~~ detached dwelling units, duplexes, and multi-~~family~~ unit~~s~~ dwellings that will be maintained; and where existing structures may be renovated or rehabilitated.

(E) Residential - Mixed 2: Medium density residential areas which have a mix of densities from low density to high density and where complementary uses may be permitted.

(F) Residential - High 1, Residential - High 2, Residential - High 4, Residential - High 5: High density residential areas primarily used for a variety of types of attached residential units, including without limitation, apartment buildings, and where complementary uses may be allowed.

(G) Residential - High 3: High density residential areas in the process of changing to high density residential uses and limited pedestrian-oriented neighborhood-serving retail uses in close proximity to either a primary destination or a transit center and where complementary uses may be allowed.

(H) Residential - High 6: High density residential urban areas that are predominately townhouses in close proximity to either a primary destination or a transit center and where complementary uses may be allowed.

(I) Residential - High 7: High density residential areas that have a fine grain of residential streets either existing or as part of a right-of-way plan approved by the city council and limited pedestrian-oriented neighborhood-serving retail uses in close proximity to either a primary destination or a transit center and where complementary uses may be allowed.

Section 34. Section 9-6-3, "Specific Use Standards - Residential Uses," B.R.C. 1981, is amended to read as follows:

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

(j) **Congregate Care Facility, Custodial Care Facility, and Residential Care Facility:**

(1) Applicability: This subsection (j) sets forth standards for congregate care facilities, custodial care facilities, and residential care facilities that are subject to specific use standards pursuant to Table 6-1, Use Table.

(2) Intensity: The number of dwelling units or sleeping rooms or accommodations shall be consistent with Section 9-8-6, "Density Equivalencies for Group Residences and Hostels," B.R.C. 1981.[11]

~~Standards: The following standards apply to any such facility that may be approved as a conditional use or pursuant to a use review:~~

~~(A) For purposes of density limits in Section 9-8-1, "Schedule of Intensity Standards," B.R.C. 1981, and occupancy limits, six occupants, including staff, in any custodial, residential, or congregate care facility constitute one dwelling unit, but the city manager may increase the occupancy of a residential care facility to eight occupants, including staff, if:~~

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

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

…

(l) **Group Home Facility:**

[11] Density equivalency standards already exist in Section 9-8-6. As the current language links to limiting occupancy of units, staff is recommending that it be removed for conflict with state law and also the Fair Housing Act. The intensity would still be limited on multi-family lots consistent with existing congregate care standards.

(1) The following standards apply to any group home facility that may be approved as a conditional use or pursuant to a use review:

(A) General Standards: Any group home facility approved as a conditional use or pursuant to a use review shall meet the following standards:

(i) Intensity: The number of dwelling units or sleeping rooms or accommodations shall be consistent with Section 9-8-6, "Density Equivalencies for Group Residences and Hostels," B.R.C. 1981.[12]

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

~~a. The floor area ratio for the facility complies with standards of the Colorado State Departments of Public Health and Environment and Human Services and Chapter 10-2, "Property Maintenance Code" B.R.C. 1981; and~~

~~b. Off-street parking is appropriate to the use and needs of the facility and the number of vehicles used by its occupants, regardless of whether it complies with other off-street parking requirements of this chapter.~~

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

(iii) Safety: No person shall make a group home facility available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others. A determination that a person poses a direct threat to the health or safety of others or a risk of substantial physical damage to property must be based on a history of overt acts or current conduct of that

[12] Same as the prior footnote.

individual and must not be based on general assumptions or fears about a class of disabled persons.

(m) **Transitional Housing:**

(1) The following standards apply to any transitional housing facility that may be approved as a conditional use or pursuant to a use review:

(A) General Standards: Any transitional housing approved as a conditional use or pursuant to a use review shall meet the following standards:

(i) Density: The maximum number of dwelling units with transitional housing facility shall be the same as is permitted within the underlying zoning district, except that for any zoning district that is classified as an industrial zoning district pursuant to Section 9-5-2, "Zoning Districts," B.R.C. 1981, the number of dwelling units permitted shall not exceed one dwelling unit for each one thousand six hundred square feet of lot area on the site.

~~(ii) Occupancy: No person shall occupy such dwelling unit within a transitional housing facility except in accordance with the occupancy standards set forth in Section 9-8-5, "Occupancy of Dwelling Units," B.R.C. 1981, for dwelling units.[13]~~

(ii~~i~~) Parking: The facility shall provide one off-street parking space for each dwelling unit on the site. The approving authority may grant a parking deferral of up to the higher of fifty percent of the required parking or what otherwise may be deferred in the zoning district if the applicant can demonstrate that the criteria set forth in Subsection 9-9-6(e), B.R.C. 1981, have been met.

Section 35. Section 9-6-5, "Specific Use Standards- Commercial Uses," B.R.C. 1981, is amended to read as follows:

9-6-5. Specific Use Standards - Commercial Uses.

FOOD, BEVERAGE, AND LODGING

(a) **Bed and Breakfast:**

(1) The following standards apply to bed and breakfast uses that may be approved as a conditional use or pursuant to a use review:

(A) The structure is compatible with the character of the neighborhood in terms of height, setbacks, and bulk. Any modifications to the structure are compatible with the character of the neighborhood.

[13] Occupancy will no longer be regulated in Title 9, but rather Title 10, which references the IPMC. This section is no longer necessary.

(B) One parking space is provided for each guest bedroom, and one space is provided for the operator or owner's unit in the building.

(C) No structure contains more than twelve guest rooms. The number of guest rooms shall not exceed the occupancy limitations set forth in Section 9-8-6, "Density ~~Occupancy~~ Equivalencies for Group Residences and Hostels," B.R.C. 1981.

(D) No cooking facilities including, without limitation, stoves, hot plates, or microwave ovens are permitted in the guest rooms. No person shall permit such use.

(E) One attached exterior sign is permitted to identify the bed and breakfast, subject to the requirements of Section 9-9-21, "Signs," B.R.C. 1981.

(F) No long-term rental of rooms is permitted. No person shall permit a guest to remain in a bed and breakfast for a period in excess of thirty days.

(G) No restaurant use is permitted. No person shall serve meals to members of the public other than persons renting rooms for nightly occupancy and their guests.

(H) No person shall check in or check out of a bed and breakfast or allow another to do so except between the times of 6 a.m. and 9 p.m.

Section 36. Section 9-7-2, “Setback Standards,” B.R.C. 1981, is amended to read as follows:

9-7-2. Setback Standards.

(a) Front Yard Setback Reductions: The front yard setback required in Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, may be reduced for a principal structure on any lot if more than fifty percent of the principal buildings on the same block face or street face do not meet the required front yard setback. The setback for the adjacent buildings and other buildings on the block face shall be measured from the property line to the bulk of the building, excluding, without limitation, any unenclosed porches, decks, patios or steps. The bulk of the building setback shall not be less than the average bulk of the building setback for the principal buildings on the two adjacent lots. Where there is only one adjacent lot, the front yard setback reduction shall be based on the average of the principal building setbacks on the two closest lots on the same block face. (See Figure 7-1 of this section.)

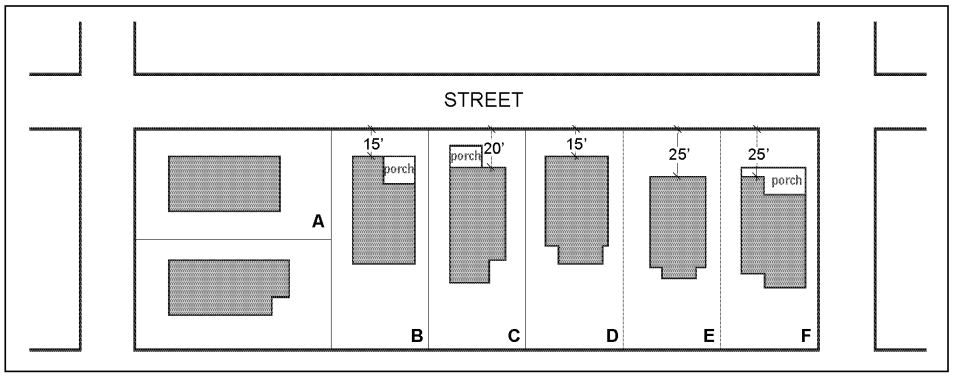


Figure 7-1: Setback Averaging Example

In this example, lots "B" through "F" are the face block. Lot "A" is not included in the face block, as the front of this lot is on a different street. Setback averaging is measured to the bulk of the buildings and does not include porches.

Assuming this block is zoned RL-1, the minimum required front yard setback would be twenty-five feet. The block face shown would qualify for setback averaging, as more than fifty percent of the principal buildings do not meet the required front yard setback. An addition to the front of lot "E" would require the averaging of the setbacks of lots "D" and "F", the two closest buildings on the same block face. In this example the resulting setback would be 20 feet - the average of lot "D" (fifteen feet) and lot "F" (twenty-five feet). An addition to the front of lot "F" would be based on the average of the two closest buildings on the same block face; in this case, lots "D" and "E."

(b) Side Yard Setback Standards:

(1) Setbacks for Upper Floors in Non-Residential Zoning Districts: A principal building constructed with a side yard setback of zero for the first story above grade in the BC-2, BR-1, DT-1, DT-2, DT-3, DT-4, DT-5, IS-1, IG or IM zoning districts, where the side yard setback is noted as "0 or 12," may have upper stories set back either five feet or the distance required by Chapter 10-5 "Building Code," B.R.C. 1981, whichever is greater.

(2) Maintenance Easements Required in Residential Zoning Districts: In residential zoning districts that allow a zero side yard or rear yard setback, the applicant shall be required to secure a recorded maintenance easement from the adjoining property owner if the zero setback side is not attached to another structure. The easement shall be effective for the life of the building. The easement shall not be less than three feet in width measured parallel to that portion of the building at zero setback.

(3) Wall Height for Residential Zero Lot Line: The maximum wall height for detached dwelling units at the zero setback property line shall be twelve feet. Townhouses, consistent with Subparagraph (7), below, are not subject to this restriction.

(4) Calculating Residential Zero Lot Line Side Yard Setbacks: For detached dwelling units, the side yard setback opposite the zero setback property line shall be the sum of both side yards for the district.

(5) Combined Side Yard Setbacks: When combined side yard setbacks are required by Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, the resulting structure, including the existing structure and any addition, must meet the combined side yard setback requirements. (See Figure 7-2 of this section for compliant and noncompliant examples.)

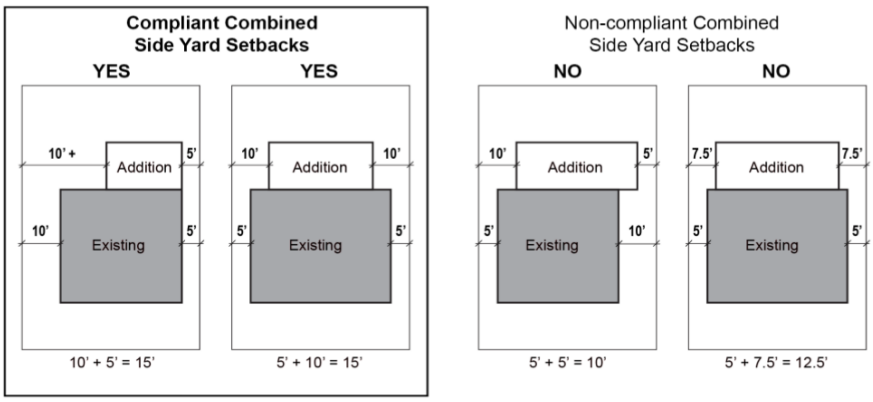


Figure 7-2: Combined Side Yard Setbacks

Example: In the RL-1 district, the combination of side yard setbacks must be no less than fifteen feet, with a minimum of five feet. Both existing structures and additions (hatched) are included in the calculation.

(6) Existing Nonstandard Side Yard Setbacks for Existing ~~Single-Family~~ Detached Dwelling Units: A second story addition that does not comply with the minimum interior or combined side yard setbacks may be added to an existing ~~single family~~ detached dwelling unit subject to the following:

(A) The interior side yard setback for the existing ~~single family~~ detached dwelling unit complied with the setback requirements in existence at the time of initial construction and was not created by a variance or other procedure;

(B) The resulting interior side yard setback will not be less than five feet and combined side yard setbacks will not be less than ten feet;

(C) That portion of the building in the side yard setback shall vertically align with the existing first story wall.

Section 37. Section 9-7-8, “Accessory Buildings in Residential Zones,” B.R.C. 1981, is amended to read as follows:

9-7-8. Accessory Buildings in Residential Zones.

(a) Maximum Building Coverage: In an RR, RE, RL or RMX-1 residential zoning district, unless the property has been designated as an individual landmark or is located within a historic district under Chapter 9-11, "Historic Preservation," B.R.C. 1981, the total cumulative building coverage of accessory buildings or structures between the principal building rear yard setback and the rear yard property line shall not exceed five hundred square feet. For a property that has been designated as an individual landmark or is located within a historic district under Chapter 9-11, "Historic Preservation," B.R.C. 1981, such total cumulative building coverage may be increased to permit the addition of one new accessory building or structure of up to five hundred square feet of coverage if such property has existing structures within the principal building rear yard setback area. There shall be no limitation on building coverage for accessory buildings or structures located entirely within the principal building envelope except as set forth in the definition of "accessory building or structure," in Chapter 9-16, "Definitions," B.R.C. 1981.

(b) Connections Between a Dwelling Unit and an Accessory Building Located Within the Principal Building Envelope: In a residential zoning district, a ~~single-family~~ detached dwelling unit may be connected to an accessory building by a breezeway that is built in compliance with the principal building setback standards set forth in this chapter, or the principal building setback standards in place at the time of its construction, if the breezeway meets the following standards:

(1) The sides of the breezeway shall be completely open except for structural support columns and the walls of the accessory structure and the dwelling unit to which it is attached.

(2) No useable floor area is located above the breezeway.

(3) The accessory building and the dwelling unit shall comply with the use limitations for such buildings set forth in Chapter 9-16, "Definitions," B.R.C. 1981.

(4) A breezeway shall be classified as building coverage for purposes of calculating the required open space for the dwelling unit.

(c) Breezeway Connections Between Accessory and Principal Buildings: In a residential zoning district, a ~~single-family~~ detached dwelling unit may be connected to an accessory building which is located partially or entirely within principal building rear yard setback by a breezeway if the breezeway meets the following standards:

(1) No portion of the roof shall exceed a height of twelve feet, measured to the finished grade directly below it, or the height of the accessory building to which it is attached, whichever is less. (See Figure 7-8 of this section.)

(2) No walkways are permitted on the roof of a breezeway.

(3) The width of the breezeway, measured from the outside edge of the supporting columns, shall not exceed six feet.

(4) Each eave, measured from the outside edge of the supporting columns, to the fascia, shall not exceed eighteen inches.

(5) The sides of the breezeway above grade shall remain completely open except for structural support columns and the walls of the accessory building and the ~~single-family~~ detached dwelling unit to which it is attached.

(6) The breezeway shall be set back from the interior side yard the greater of ten feet or the minimum principal building side yard setback for the underlying zoning district.

(7) Any portion of a breezeway that is located within the principal building rear yard setback shall be included in the maximum coverage limitations for accessory buildings set forth in subsection (a) of this section.

(8) A breezeway may be building coverage pursuant to Section 9-16-1, "General Definitions, B.R.C. 1981 and subject to Section 9-7-11, "Maximum Building Coverage," B.R.C 1981.

Section 38. Section 9-7-9, “Side Yard Bulk Plane,” B.R.C. 1981, is amended to read as follows:

9-7-9. Side Yard Bulk Plane.

(a) Purpose: Buildings with tall side walls may impact privacy, views or visual access to the sky on neighboring properties. The purpose of this side yard bulk plane standard is to ensure that buildings step down towards neighboring properties in order to enhance privacy, preserve some views and visual access to the sky for lots or parcels that are adjacent to new development.

(b) Scope: All construction related to principal and accessory buildings shall comply with the bulk plane requirements of this section. This section applies to all construction related to buildings, including new construction, building addition or modification of existing buildings as follows:

(1) All residential principal and accessory buildings in the RR-1, RR-2, RE and RL-1 zoning districts; and

(2) All principal and accessory buildings that are used as ~~a~~ detached ~~single family land use~~dwelling units in the RMX-1 zoning district.

Section 39. Section 9-7-10, "Schedule of Intensity Standards," B.R.C. 1981, is amended to read as follows:

9-7-10. Side Yard Wall Articulation.

(a) Purpose: Buildings with tall side walls may impact privacy, views or visual access to the sky on neighboring properties. The purpose of the side yard wall articulation standard is to reduce the perceived mass of a building by dividing it into smaller components, or to step down the wall height in order to enhance privacy, preserve views and visual access to the sky for lots or parcels that are adjacent to new development.

(b) Scope: All construction related to principal and accessory buildings shall comply with the side yard wall length articulation requirements of this section. This section applies to all construction related to buildings, including new construction, expansion or modification of existing buildings as follows:

(1) All residential buildings in the RR-1, RR-2, RE and RL-1 zoning districts, including lots located in planned developments, planned residential developments and planned unit developments.

(2) All buildings that are used ~~as a~~ detached ~~single family land used~~dwelling units in the RMX-1 zoning district, including lots located in planned developments, planned residential developments and planned unit developments.

Section 40. Section 9-7-11, "Maximum Building Coverage," B.R.C. 1981, is amended to read as follows:

9-7-11. Maximum Building Coverage.

(a) Purpose: The purposes of the building coverage standards are to establish the maximum percentage of lot surface that may be covered by principal and accessory buildings to preserve open space on the lot, and to preserve some views and visual access to the sky and enhance privacy for residences that are adjacent to new development.

(b) Scope: All construction related to principal and accessory buildings shall comply with the building coverage requirements of this section. This section applies to all construction related to residential buildings, including new construction, building additions or modification of existing buildings as follows:

(1) All residential and principal and accessory buildings in the RR-1, RR-2, RE and RL-1 zoning districts, including lots located in planned developments, planned residential developments and planned unit developments.

(2) All principal and accessory buildings that are used as ~~a~~ detached ~~single family land use~~dwelling units in the RMX-1 zoning district, including lots located in planned developments, planned residential developments and planned unit developments.

(3) In the RL-2 zoning district, the building coverage requirements shall apply to lots that are eight thousand square feet or larger that are not within the boundaries of a planned development, planned residential development, planned unit development or an approved site review.

(4) In the RL-2 zoning district, the requirements shall apply to all lots and parcels that are within the boundaries of a planned development, planned residential development and planned unit development that are shown on Appendix H of this title.

Section 41. Section 9-8-1, “Schedule of Intensity Standards,” B.R.C. 1981, is amended to read as follows:

9-8-1. - Schedule of Intensity Standards.

The purpose of this chapter is to indicate the requirements for the allowed intensity of all types of development, including maximum density for residential developments based on allowed number of units ~~and occupancy~~.[14] All primary and accessory structures are subject to the standards set forth in Table 8-1 of this section except that developments within an area designated in Appendix L, "Form-Based Code Areas," and subject to the standards or Chapter 9-14, "Form-Based Code," are exempt from Table 8-1 and Sections 9-8-1 through 9-8-4, B.R.C. 1981. Developments within an area designated in Appendix L, "Form-Based Code Areas," and subject to the standards or Chapter 9-14, "Form-Based Code ," are subject to the standards of Sections 9-8-5, "Occupancy of Dwelling Units," 9-8-6, "Density ~~Occupancy~~ Equivalencies for Group Residences and Hostels," and 9-8-7, "Density ~~and Occupancy~~ of Efficiency Living Units," B.R.C. 1981. No person shall use any land within the city authorized by Chapter 9-6, "Use Standards," B.R.C. 1981, except according to the following requirements unless modified through a use review under Section 9-2-15, "Use Review," B.R.C. 1981, or a site review under Section 9-2-14, "Site Review," B.R.C. 1981, or granted a variance under Section 9-2-3, "Variances and Interpretations," B.R.C. 1981, or approved through a form-based code review under Section 9-2-16, "Form-Based Code Review," B.R.C. 1981.

[14] Occupancy is no longer regulated in the land use code.

Section 42. Section 9-8-2, "Floor Area Ratio Requirements," B.R.C. 1981, is amended to read as follows:

9-8-2. Floor Area Ratio Requirements.

(a) Purpose: The purpose of the floor area ratio requirements is to limit the impacts of the use that result from increased building size.

(b) Maximum Floor Area Ratio: The maximum floor area ratio on a lot or parcel shall be the greatest of the following:

(1) The floor area set forth in this section;

(2) The floor area approved prior to June 3, 1997, as part of a valid existing or unexpired planned development (PD), planned residential development (PRD), planned unit development (PUD), or a site review; or

(3) The floor area on the lot or parcel on June 3, 1997.

(c) Calculating Floor Area Ratios and Floor Area Ratio Additions: The floor area ratio shall be calculated based on all buildings on a lot according to the definitions in Chapter 9-16, B.R.C., 1981, "Floor Area," "Floor Area Ratio," "Uninhabitable Space," and "Basement". In addition to the floor area ratio limitations set forth in Table 8-1, Intensity Standards, B.R.C. 1981, floor area ratio additions may be added above the base floor area ratio and certain floor areas may be excluded from the floor area calculations as set forth in Table 8-2 of this section.

TABLE 8-2: FLOOR AREA RATIO ADDITIONS

	DT-1	***DT-2***	***DT-3***	***DT-4***	***DT-5***	***MU-1***[(c)]	***MU-2***[(c)]	***MU-3***	***BT-2***	***B***
Base FAR	1.0	1.5	1.7	1.7	1.7	0.6	0.6	1.0	0.5	0.
Maximum total FAR additions (FAR)[(d)]	1.0	0.5	1.0	0.5	1.0	0.07	-	-	-	0.
FAR additional components:										
1) Residential floor area (FAR)	0.5	0.5	0.5	0.5	1.0[(b)]	-	-	-	-	-

2) Residential floor area if at least 35% of units are permanently affordable and at least 50% of total floor area is residential (FAR)	-	-	-	-	-	0.07	-	-	-	-
3) Residential floor area for a project NOT located in a general improvement district that provides off-street parking	-	-	-	-	-	-	-	-	-	0.
4) Floor area used as off-street parking, bicycle parking, and vehicular circulation that is above grade and provided entirely within the structure	0.5	0.5	0.5	0	0.5	Not counted	Not counted	Not counted	-	N co
5) Below grade area used for occupancy	Not counted	Not counted	Not counted	Not counted	Not counted	-	-	-	Not counted	N co
6) Nonresidential floor area (FAR) (see Paragraph 9-	-	-	-	-	1.0[(b)]	-	-	-	-	-

8-2(d)(3) and Section 4-20-62, Table 4)										
Maximum allowable FAR (sum of base plus all available additions)	2.0 + row 5	2.0 + row 5	2.7 + row 5	2.2 + row 5	2.7 + row 5	0.67. + row 4 above	+ row 4 above	1.0 + row 4 above	0.5 + row 5 above	1. ro ar ab

Footnotes:

(a) FAR up to 1.85 if property is located in a general improvement district providing off-street parking.

(b) The maximum additional FAR component is 1.0. FAR additional components may be combined, but shall not exceed the 1.0 maximum total floor are ratio limit.

(c) See Subparagraph 9-2-14(h)(6)(B), B.R.C. 1981.

(d) For properties located in an area designated in Appendix L, "Form-Based Code Areas," and subject to the standards of Chapter 9-14, "Form-Based Code," the floor area and floor area ratio (FAR) requirements do not apply. Refer to Chapter 9-14, "Form-Based Code," for specific form, bulk, intensity, and outdoor space requirements.

(e) See Subsection 9-6-3(a)(2), B.R.C. 1981.

(f) Floor area ratio (FAR) in the RH-2 zoning district may be increased up to a maximum FAR of 1.07 in a site review.

(g) FAR in the BT-1 zoning district may be increased up to a maximum FAR of 1.4 in a site review.

(h) FAR in the BC zoning districts may be increased up to a maximum FAR of 2.0 provided the lot or parcel is located within an area identified in Appendix N, "Business Community (BC) Areas Subject to Special Use Restrictions."

(-) Not applicable.

(d) District-Specific Standards:

(1) Maximum Floor Area in the RR-1, RR-2, RE, RL-1, RL-2, and RMX-1 Zoning Districts:

(A) Purpose: The purpose of a floor area ratio standard is to address the proportionality of building size to lot size and allow variation in building form within the established building envelope.

(B) Scope: All construction related to principal and accessory buildings shall comply with the floor area ratio requirements of this section. This section applies to all construction related to residential buildings, including new construction, building additions, or modification of existing buildings as follows:

(i) All ~~residential and~~ principal and accessory buildings in the RR-1, RR-2, RE, and RL-1 zoning districts, including lots located in planned developments, planned residential developments, and planned unit developments.

(ii) All principal and accessory buildings ~~that are used as a detached single-family land use~~ in the RMX-1 zoning district, including lots located in planned developments, planned residential developments, and planned unit developments.

(iii) In the RL-2 zoning district, the floor area ratio requirements shall apply to lots that are 8,000 square feet or larger, used for detached ~~single-family land uses~~dwelling units that are not within the boundaries of a planned development, planned residential development, planned unit development, or an approved site review.

(iv) In the RL-2 zoning district, the floor area ratio requirements shall apply to all lots and parcels used for detached ~~single family land uses~~dwelling units that are within the boundaries of a planned development, planned residential development, and planned unit development that are shown on Appendix H to this title.

(v) For projects subject to site review in Section 9-2-14, "Site Review," B.R.C. 1981, the floor area shall be calculated based upon each lot or parcel.

Section 43. Section 9-8-5, “Occupancy of Dwelling Units,” B.R.C. 1981, is amended to read as follows:

9-8-5. Occupancy of Dwelling Units.

(a) General Occupancy Restrictions: No person shall occupy a dwelling unit in violation of the provisions of Chapter 10-2, “Property Maintenance Code,” B.R.C.1981, or intentionally or negligently misrepresent the permitted occupancy of a dwelling unit under Title 10 of this code. A violation of this section shall be considered a violation of Title 10.[15]

(b) Prior Approvals: Any requirement under a city approval granted under this title that restricts occupancy based on familiar relationship, such as number of unrelated persons, or restricts occupancy or beyond the occupancy permitted by Chapter 10-2, "Property

[15] The existing section on occupancy in the land use code is proposed to be updated to refer specifically to Chapter 10-2, “Property Maintenance Code” which has direct links to the IPMC.

Maintenance Code," B.R.C. 1981, is void and shall not be enforced. [16] Notwithstanding the foregoing, this subsection does not apply to any residential occupancy limit based on the standards in Chapter 9-13, "Inclusionary Housing," B.R.C. 1981, or based on any local, state, federal or political subdivision affordable housing program guidelines.

~~Subject to the provisions of Chapter 10-2, "Property Maintenance Code," B.R.C. 1981, no persons except the following persons shall occupy a dwelling unit:~~

~~(1) Members of a family plus up to two additional persons. Quarters that roomers use shall not exceed one-third of the total floor area of the dwelling unit and shall not be a separate dwelling unit;~~

~~(2) Up to any five persons except within a residential development exceeding a density of 1,600 square feet of lot area per dwelling unit in the RH-2 and RH-5 zoning districts up to four persons;~~

~~(3) Three persons and any of their children by blood, marriage, guardianship, including foster children, or adoption; or~~

~~(4) A nonconforming occupancy meeting the requirements of Subsection (c) of this section.~~

~~(5) The occupancy level allowed by Subparagraphs 9-8-5 (a)(2) and (a)(3) do not apply to nonconforming uses or nonconforming occupancies.~~

~~(b) Accessory Dwelling Unit: The principal dwelling unit and accessory dwelling unit shall be considered one dwelling unit. The occupancy of the principal dwelling unit together with the occupancy of any accessory dwelling unit shall not exceed the occupancy requirements set forth in this section for one dwelling unit; provided, however, for purposes of this subsection only, any occupant and his or her dependents shall be counted as one person. The floor area limitation for quarters used by roomers under Paragraph 9-8-5(a)(1), B.R.C. 1981, shall not apply to an accessory dwelling unit.~~

~~(c) Nonconforming Occupancy in Dwelling Units: A dwelling unit that has a legally established occupancy higher than the occupancy level allowed by Subsection (a) of this section may maintain such occupancy of the dwelling unit as a nonconforming occupancy, subject to the following:~~

~~(1) The higher occupancy level was established because of a rezoning of the property, an ordinance change affecting the property, or other city approval;~~

~~(2) The rules for continuation, restoration, and change of a nonconforming use set forth in Chapter 9-10, "Nonconformance Standards," B.R.C. 1981, and Section 9-2-15, "Use Review," B.R.C. 1981;~~

~~(3) Units with an occupancy greater than five unrelated persons shall not exceed a total occupancy of the dwelling unit of one person per bedroom;~~

[16] This "Prior Approval" section makes it clear that if there are any prior approvals from the city that may have restricted occupancy based on familial relationships that these provisions are not null and void in light of state laws that note that local governments may not enforce occupancy laws based on the numbers of unrelated persons.

(4) The provisions of Chapter 10-2, "Property Maintenance Code," B.R.C. 1981; and

(5) If a property owner intends to sell a dwelling unit with a non-conforming occupancy that exceeds the occupancy limits in Subsection 9-8-5(a), B.R.C. 1981, every such contract for the purchase and sale of a dwelling unit shall contain a disclosure statement that indicates the allowable occupancy of the dwelling unit.

(d) Nonconforming Uses: A nonconforming residential use that is not permitted by Section 9-6-1, "Schedule of Permitted Land Uses," B.R.C. 1981, or is a lot or parcel that does not meet the density requirements of Chapter 9-8, "Intensity Standards," B.R.C. 1981, is subject to the following:

(1) Unless the occupancy was established meeting the requirements of Subsection (c) of this section, the occupancy of a nonconforming use per dwelling cannot be more than:

(A) Three unrelated persons in P, A, RR, RE, and RL zones;

(B) Four unrelated persons in MU, RM, RMX, RH, BT, BC, BMS, BR, DT, IS, IG, IM, and IMS zones; or

(C) Two persons and any of their children by blood, marriage, guardianship, including foster children, or adoption.

(2) The rules for continuation, restoration, and change of a nonconforming use set forth in Chapter 9-10, "Nonconformance Standards," B.R.C. 1981, and Section 9-2-15, "Use Review," B.R.C. 1981, apply except that occupancy cannot be more than that permitted by Subparagraph (1).

(e) Cooperative Housing License: A dwelling unit licensed as a cooperative housing unit pursuant to Section 10-11-3, "Cooperative Housing Licenses," B.R.C. 1981, shall not be subject to the occupancy limits or any exceptions as set forth in this section; and an attached accessory dwelling unit or detached accessory dwelling unit licensed with such dwelling unit as a cooperative housing unit shall not be subject to the occupancy standards of Subparagraph 9-6-3(n)(1)(A)(ii), "Occupancy Requirements," B.R.C. 1981. All such dwelling units together with any attached accessory dwelling unit or detached accessory dwelling unit so licensed shall be limited to no fewer than five occupants with the maximum number of occupants, without regard to whether the occupants are related or not, as follows:

(1) In the RR, RE and RL zone districts to no more than twelve occupants, provided, however, that occupancy shall not exceed more than one person per two hundred square feet of habitable space;

(2) In all other zone districts to no more than fifteen occupants, provided, however, that occupancy shall not exceed more than one person per two hundred square feet of habitable space; and

(3) The city manager may authorize a greater number of occupants in any cooperative housing unit that is deed restricted as permanently affordable if the planning board after a public hearing recommends a greater number. Before making any

~~such recommendation, the planning board shall consider the potential impacts on the surrounding community, the number of residents proposed, the proposed habitable square feet per person, the available off-street parking, and the mission of the cooperative.~~

~~(f) Prohibition: No person shall occupy a dwelling unit or accessory dwelling unit in violation of this section or intentionally or negligently misrepresent the permitted occupancy of a dwelling unit or accessory dwelling unit in violation of this section.~~[17]

Section 44. Section 9-8-6, "Occupancy Equivalencies for Group Residences," B.R.C. 1981, is amended to read as follows:

9-8-6. Density ~~Occupancy~~ Equivalencies for Group Residences and Hostels.

The permitted density~~/occupancy~~ for the following uses shall be ~~computed~~ calculated as indicated below. The density~~/occupancy~~ equivalencies shall not be used to convert existing uses referenced in this section to dwelling units except as set forth in subsection (g). The number of allowed dwelling units shall be determined by using Section 9-8-1, "Schedule of Intensity Standards," B.R.C. 1981:

(a) Boarding or Rooming House, Fraternity, Sorority, or Dormitory: In boarding or rooming houses, fraternities, sororities, or dormitories, three sleeping rooms ~~Accommodations for three occupants residents in any boarding or rooming house, fraternity, sorority, or dormitory~~ constitute one dwelling unit.

(b) Hostel: In hostels, three sleeping rooms ~~Accommodations for three occupants residents in any hostel~~ constitute one dwelling unit, but the planning board may increase the density of a hostel to four ~~occupants~~ sleeping rooms per dwelling unit through a use review as provided in Section 9-2-15, "Use Review," B.R.C. 1981.

(c) Custodial Care and Residential Care Facilities: In custodial care and residential care facilities, ~~The occupancy of a custodial care or a residential care facility must meet the requirements of Subsection 9-6-3(j), B.R.C. 1981~~ eight sleeping rooms or accommodations without kitchen facilities constitute one dwelling unit in custodial care and residential care facilities. If units are provided in a household living configuration, one detached dwelling unit constitutes one dwelling unit and one attached dwelling unit constitutes one dwelling unit.

(d) Group Home Facilities: In group home facilities, eight sleeping rooms or accommodations without kitchen facilities constitute one dwelling unit. If units are provided in a household living configuration, one detached dwelling unit constitutes one dwelling unit and one attached dwelling unit constitutes one dwelling unit.~~The occupancy~~

[17] All of these sections would not be consistent with the state law and thus, are proposed for removal.

~~of a group home facility must meet the requirements of Subsection 9-6-3(l), B.R.C. 1981~~.[18]

(e) Congregate Care Facility: In congregate care facilities, five sleeping rooms or accommodations without kitchen facilities constitute one dwelling unit, three attached dwelling units constitute one dwelling unit, and one detached dwelling unit constitutes one dwelling unit.

(1) A congregate care facility that is built or the use is established after October 31, 2013, and uses the dwelling unit equivalency of three attached dwelling units to constitute one dwelling unit shall meet the following additional standards:

(A) The facility shall include a minimum of ten attached congregate care dwelling units.

(B) The average dwelling unit floor area for attached congregate care facilities shall not exceed one thousand square feet per unit, and no single dwelling unit shall exceed one thousand two hundred square feet. The average dwelling unit floor area shall include the floor area within the attached dwelling unit and associated storage areas and shall exclude common areas and garages.

(2) A congregate care facility built or the use is established prior to October 31, 2013, may use the definition of congregate care to define the use classification and the average floor area per dwelling units for attached and detached dwelling units in effect when the congregate care facility was built or the use was established.

(f) Bed and Breakfast: Three guest rooms in a bed and breakfast constitute one dwelling unit. In any bed and breakfast, up to twelve guest rooms are permitted, provided the required parking can be accommodated on site and the provisions of Subsection 9-6-5(a), B.R.C. 1981, are met.

(g) Conversion of Rooming Units to Dwelling Units: Pursuant to approval of a use review under Sections 9-2-15, "Use Review," B.R.C. 1981, for nonconforming uses, r~~R~~ooming units in RM and RH zoning districts that were legally established under prior zoning ordinances and have continued as a legal nonconforming use may be converted to dwelling units at a ratio of four rooming units to one dwelling unit.

Section 45. Section 9-8-7, "Density and Occupancy of Efficiency Living Units," B.R.C. 1981, is amended to read as follows:

9-8-7. Density ~~and Occupancy~~ of Efficiency Living Units.

[18] These uses in detached dwelling units would be regulated the same as any detached dwelling unit per the IPMC and to comply with the Fair Housing Act. Attached housing projects would have to meet the density equivalencies of this section, which in some scenarios already allows and incentivizes additional units. The new language makes it clear that if traditional dwelling units are used in these projects, the occupancy limits would have to meet the IPMC and International Building Code (IBC).

(a) Dwelling Unit Equivalents for Efficiency Living Units: For purposes of the density limits of Section 9-8-1, "Schedule of Intensity Standards," B.R.C. 1981, two efficiency living units constitute one dwelling unit.

(b) Dwelling Unit Equivalents for Moderate Income Housing: For purposes of counting dwelling units under the provisions of Ordinance No. 4638, as amended, "Moderate Income Housing," one efficiency living unit equals one dwelling unit.

~~(c) Maximum Occupancy: No more than three persons shall occupy an efficiency living unit.~~[19]

Section 46. Section 9-9-5, “Site Access Control,” B.R.C. 1981, is amended to read as follows:

9-9-5. Site Access Control.

(a) Access Control: Vehicular access to property from the public right-of-way shall be controlled in such a manner as to protect the traffic-carrying capacity and safety of the street upon which the property abuts and access is taken, ensuring that the public use and purpose of public rights of way is unimpaired as well as to protect the value of the public infrastructure and adjacent property. The requirements of this section apply to all land uses, including ~~single-family residential land uses~~detached dwelling units, as follows:

(1) For all uses, except ~~single-family residential~~for detached dwelling units, the standards shall be met prior to a final inspection for any building permit for new development; redevelopment exceeding twenty-five percent of the value of the existing structure; or the addition of a dwelling unit. For purposes of this paragraph (1), the applicant shall demonstrate the value of the existing structure by submitting, at the discretion of the applicant, either the actual value assessed by the Boulder County Assessor's Office or the fair market value determined by a real estate appraiser licensed in Colorado.

(2) For ~~single-family residential uses~~detached dwelling units, the standards of this section shall be met prior to a final inspection for any building permit for new development; the demolition of a principal structure; or the conversion of an attached garage or carport to a use other than use as a parking space.

(3) Notwithstanding the above, development on a property that has three or fewer dwelling units must meet the driveway width standards of this section if the development has to comply with the landscape standards of Subsection 9-9-12(b), "Landscaping and Screening Standards,"

[19] This is already specified clearly in the IPMC.

B.R.C. 1981. Compliance with the driveway width standards shall be met prior to final inspection of a building permit.

(b) Access for Properties Subject to Annexation: Each parcel of land under a single ownership at the time of its annexation will be reviewed in terms of access as one parcel (regardless of subsequent sales of a portion) unless the property is subdivided at the time of its annexation.

(c) Standards and Criteria for Site Accesses and Curb Cuts: Any access or curb cut to public rights of way shall be designed in accordance with the City of Boulder Design and Construction Standards and the following standards and criteria:

(1) Number of Access Points Permitted: One access point or curb cut per property will be permitted, unless a site plan or traffic study, approved by the city manager, demonstrates that additional access points and curb cuts are required to adequately address accessibility, circulation, and driveway volumes, and only where additional accesses and curb cuts would not impair any public use of any public right-of-way, or create safety or operational problems, or be detrimental to traffic flow on adjacent public streets.

(2) Access Restrictions: On arterial and collector streets, or if necessary for the safe and efficient movement of traffic, all accesses shall be designed and constructed with physical improvements and appropriate traffic control measures to assist or restrict turning movements, including, without limitation, acceleration or deceleration lanes, access islands, street medians, and signage, as may be required of the development if the city manager finds that they are necessary to preserve the safety or the traffic-carrying capacity of the existing street. The city manager shall determine the length and degree of the required access restriction measures for the property.

(3) Residential Access to Arterial and Collector Streets Restricted: No residential structures shall have direct access onto an arterial. However, if no alternative street access is possible, an access may be permitted subject to the incorporation of any design standards determined to be necessary by the city manager to preserve the safety and the traffic-carrying capacity of the arterial or collector.

(4) Access From Lowest Category Street Required: A property that has frontage on more than one street, alley or public access shall locate its access or curb cut on the lowest category street, alley or public access frontage. If more than one access point or curb cut is necessary, an additional access or curb cut will be permitted only where the proposed access or curb cut satisfies the requirements in this section.

(5) Property Right to Access: If a property cannot be served by any access point or curb cut that satisfies this section, the city manager will designate the access point or curb cut for the subject property based on optimal traffic safety.

(6) Multiple Access Points for ~~Single-Family Residential~~ Detached Dwelling Units: The city manager will permit multiple access points on the same street for a single lot containing a

detached dwelling unit ~~single-family residential lots~~ upon finding that there is at least one hundred linear feet of lot frontage adjacent to the front yard on such street, the area has a limited amount of pedestrian activity because of the low density character, and there is enough on-street parking within three hundred feet of the property to meet the off-street parking needs of such area. The total cumulative width of multiple curb cuts shall not exceed the maximum permitted width of a single curb cut. The minimum spacing between multiple curb cuts on the same property shall not be less than sixty-five feet.

(7) Shared Driveways for Residential Structures: A lot with a detached ~~single-family residential lot~~ dwelling unit that does not have frontage on the street from which access is taken may be served by a shared driveway that meets all of the standards and criteria for shared driveways set forth in the City of Boulder Design and Construction Standards.

Section 47. Section 9-9-11(i), "Useable Open Space," B.R.C. 1981, is amended to read as follows:

9-9-11. Useable Open Space.

…

(i) Prohibitions: Portions of a lot on which a structure or unenclosed use is located shall not be counted as useable open space unless allowed in subsection (d), (e), (f) or (h) of this section. Portions of a lot that are unenclosed include those areas that are designed such that they cannot be enclosed and are generally open to the sky above, except for a balcony or deck. The following are specific examples of areas that may not be counted as useable open space:

(1) Paved areas intended for pedestrian use, which are located adjacent to alleys or driveways and are not physically separated from the alley or driveway by a barrier such as a fence, wall, bollard or elevated planter or curb which prevent use of the area by any vehicle;

(2) A recessed window or doorway of less than twenty-four square feet in ground area and less than three feet in any horizontal dimension;

(3) Any landscaped area less than two feet in width unless located within an elevated planter that is less than eighteen inches in height;

(4) Public or private rights of way for highways, streets or alleys;

(5) Roofs that do not meet the provisions of paragraph (f)(1) of this section;

(6) Parking areas and garages that do not meet the provisions of paragraph (f)(3) of this section;

(7) Land area with a slope in excess of fifteen percent unless approved as part of a site review;

(8) Balconies, decks and patio areas attached to a ~~single family~~ detached dwelling unit which are:

(A) Attached at the same level or below the first floor above grade and where the deck floor exceeds six feet above grade; or

(B) Constructed over an enclosed building.

Section 48. Section 9-9-12(ii), "Landscaping and Screening Standards," B.R.C. 1981, is amended to read as follows:

9-9-12. Landscaping and Screening Standards.

…

(ii) Maintenance and Replacement: The property owner shall maintain all required landscaping and provide for replacement of plant materials that have died or have otherwise been damaged or removed, and maintenance of all non-live landscaping materials, including, but not limited to, fencing, paving, irrigation systems, and retaining walls from the issuance of a certificate of occupancy or certificate of completion.

(3) Open Space: Required useable open space shall meet the provisions of this section and Sections 9-7-1, "Schedule of Form and Bulk Standards," and 9-9-11, "Useable Open Space," B.R.C. 1981.

(4) Pedestrian Access: In all zones except A, P, RR, RE, RL, and RM, paved pedestrian walkways, a minimum of three feet in width, shall be provided as follows:

(A) Between at least one building entrance and the sidewalk adjacent to the street;

(B) Between the parking lot and the entrance to any buildings larger than 10,000 square feet in size.

(5) Screening of Trash Collection and Recycling Areas, Service Areas, and Loading Areas: In nonresidential and multi-~~family~~ unit residential developments, trash collection and recycling areas, service areas, and loading areas shall be screened on all sides so that no portion of such areas are visible from public streets and alleys and adjacent properties. Required screening may include new and existing plantings, walls, fences, screen panels, doors, topographic changes, buildings, horizontal separation, or any combination thereof.

Section 49. Section 9-9-13, “Streetscape Design Standards,” B.R.C. 1981, is amended to read as follows:

9-9-13. Streetscape Design Standards.

Streetscape improvements shall be designed in accordance with the following standards:

(a) Scope: The standards set forth in this section apply to all land uses, including ~~single-family residential land uses~~detached dwelling units.

(b) Street Trees: A planting strip consisting of deciduous trees shall be planted along the full length of all public and private streets in all zoning districts. When possible, trees shall be planted in the public right-of-way. Large deciduous trees and detached sidewalks are required wherever possible and shall be planted at a minimum, in accordance with subsection (d) of this section.

(c) Alley Trees: Except for existing ~~single-family~~ lots with a detached dwelling unit, along all alleys adjacent to or within a residential zone, trees shall be planted at an overall average of one tree per forty linear feet within ten feet of the pavement or edge of alley.

Section 50. Section 9-10-3(b)(1), “Changes to Nonstandard Buildings, Structures, and Lots and Nonconforming Uses,” B.R.C. 1981, is amended to read as follows:

9-10-3. Changes to Nonstandard Buildings, Structures, and Lots and Nonconforming Uses.

…

(b) Nonstandard Lots or Parcels:

(1) Development Requirements: Vacant lots in all residential districts except RR-1 and RR-2 which are smaller than the lot sizes indicated in Section 9-8-1, "Schedule of Intensity Standards," B.R.C. 1981, but larger than one-half of the required zoning district minimum lot size, may be developed with a ~~single-family~~ detached dwelling unit if the building meets the setback requirements of Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981. In RR-1 and RR-2 districts, lots which are smaller than the minimum lot size but larger than one-fourth of the minimum lot size may be developed if the building meets the setback requirements. In all other zoning districts, vacant lots which are below one-half of the required minimum lot size for the zoning district shall not be eligible for construction of principal buildings.

Section 51. Section 9-13-3, “General Inclusionary Housing Requirements,” B.R.C. 1981, is amended to read as follows:

9-13-3. General Inclusionary Housing Requirements.

(a) Inclusionary Housing Requirements.

(1) A development is required to include at least twenty-five percent of the total number of dwelling units as permanently affordable units.

(2) For required for-sale permanently affordable units, townhouses and ~~single-family homes~~detached dwelling units shall have prices set to be affordable to one hundred twenty percent of the AMI. All other types of permanently affordable for-sale units shall have prices set to be affordable to one hundred percent of the AMI.

(3) Required rental permanently affordable units shall include eighty percent of the required permanently affordable units as low/moderate income dwelling units and twenty percent of the required permanently affordable units shall have rents set to be affordable to households earning no greater than fifty percent of the AMI.

(4) As an alternative to providing permanently affordable units on-site developments may satisfy the inclusionary housing requirement through any combination of the alternative means of compliance set forth in Section 9-13-10, "Options for Satisfaction of Inclusionary Housing Requirement," B.R.C. 1981.

(5) The city manager is authorized to use rule-making authority to annually adjust the percentages in Subsection 9-13-3(a) to incentivize on-site affordable units.

(6) Rounding Rule: In determining the number of permanently affordable units required on or off-site, any inclusionary housing requirement resulting in a fractional value with a decimal point that is 0.5 or greater will be rounded up to the next whole number. Any remaining fraction may be met through other options as allowed in Section 9-13-10, "Options for Satisfaction of Inclusionary Housing Requirement," B.R.C. 1981.

Section 52. Section 9-13-7, “Relationship of Permanently Affordable Units to Market Units,” B.R.C. 1981, is amended to read as follows:

9-13-7. Relationship of Permanently Affordable Units to Market Units.

(a) Purpose: Permanently affordable units shall be comparable in quality, design and general appearance to the market rate units creating the inclusionary housing requirement.

(b) Detached Dwelling Units: When a development contains ~~single-family~~ detached dwelling units, a proportional number of the required permanently affordable units shall also be ~~single-family~~ detached dwelling units or attached townhouses.

(c) Mixed Dwelling Unit Types: In developments with a mixture of dwelling unit types, including, without limitation, ~~single-family~~ detached dwelling units, townhouses, duplexes, triplexes, four-plexes, eight-plexes, and stacked flats, the required permanently affordable units shall be comprised of the different dwelling unit types in the same proportion as the dwelling units that are not permanently affordable within the development except as allowed in Subsection (b) above.

(d) Number of Bedrooms and Bathrooms: Permanently affordable units shall have the same proportion of zero bedroom/studio, one-, two-, three- and four-bedroom dwelling units as the market rate units of the development. The city manager will determine the minimum numbers of bathrooms required for permanently affordable units with these numbers of bedrooms.

(e) Ownership Type: Permanently affordable units shall be for-sale in the same proportion as the market rate units that are for-sale within the development that generated the requirement; for example, if fifty percent of the units in the development are for sale units, then at least fifty percent of the permanently affordable units must be for-sale units except as otherwise approved by the city manager. Rental developments may provide either rental or for-sale permanently affordable units.

Section 53. Section 9-15-4, "Criminal Sanctions," B.R.C. 1981, is amended to read as follows:

9-15-4. Criminal Sanctions.

(a) The city attorney, acting on behalf of the people of the city, may prosecute any violation of this title or any approval granted under this title in municipal court in the same manner that other municipal offenses are prosecuted.

(b) The penalty for violation of any provision of this title is a fine of not more than $2,650~~000~~.00 per violation. The limitation of this fine shall be adjusted for inflation on January 1, 2025, and on January 1 of each year thereafter. As used in this subsection, "inflation" means the Colorado consumer price index or a similar index that is tied to the annual rate of inflation in the state or Denver-Boulder metropolitan area.[20] In addition, upon conviction of any person for violation of this title, the court may issue a cease and desist order and any other orders reasonably calculated to remedy the violation. Violation of any order of the court issued under this section is a violation of this section and is

[20] This is an update to reflect current penalties and provide consistency with recent code changes.

punishable by a fine of not more than $4,000.00 per violation, or incarceration for not more than ninety days in jail or both such fine and incarceration.

~~(c) Notwithstanding the provisions of subsection (b) of this section, the following specific sentencing considerations shall apply to fines imposed for violations of section 9-8-5, "Occupancy of Dwelling Units," B.R.C. 1981:~~

~~(1) The court shall consider any evidence presented by the defendant that a potential fine would be confiscatory. A confiscatory fine is a fine that would deprive a normally capitalized owner of the ability to continue operating a rental housing business of the sort involved in the case before the court. No fine that is confiscatory shall be enforced by the court.~~

~~(2) In imposing a fine in any single case or in any consolidated cases, the court may weigh all factors normally and properly considered in connection with the imposition of fines, including the seriousness of the violation, the past record of the defendant, the economic circumstances of the defendant and all mitigating or aggravating factors relevant to the violation or to the defendant. In addition, in determining the amount of any fine, the court may consider:~~

~~(A) The imposition of a fine that would deprive the defendant of any illegal profit collected because of the occurrence of the over-occupancy violation or violations on the rental housing property;~~

~~(B) The imposition of a reasonable penalty in addition to any level of fine that is attributable to illegally obtained profit; and~~

~~(C) The imposition of such additional fine as is determined by the court to constitute a reasonable amount to be suspended in order to ensure compliance with any terms of probation imposed by the court.~~

~~(3) No fine imposed in a single case alleging multiple dates of violation, nor any fine in consolidated cases alleging multiple days of violation, shall exceed the maximum fine that might be imposed for fifteen separate violations unless the court finds special aggravating circumstances. Where special aggravating factors are at issue, the following procedures shall apply:~~

~~(A) The defendant shall be entitled to ten days' notice of any special aggravating factors upon which the prosecution intends to rely at the sentencing hearing or about which, based upon evidence previously presented, the court is concerned. If necessary in order to provide such notice, a defendant shall be entitled to a continuance of the sentencing hearing.~~

~~(B) A judicial finding of the existence of special aggravating factors shall not mandate that the court impose any particular level of fine but will, rather, provide the sentencing court with discretion to determine a fine based upon all the criteria set forth in this subsection.~~

~~(C) Special aggravating factors, for the purpose of this subsection, shall require a judicial finding of one or more of the following:~~

~~(i) The occupancy violations at issue were flagrant and intentional on the part of the defendant;~~

~~(ii) The defendant, after learning of the over-occupancy condition, failed to attempt corrective action over a sustained period of time; or~~

~~(iii) A fine equivalent to the maximum fine permitted for fifteen separate violations would be inadequate to disgorge the defendant of illegal profits obtained as a consequence of the violations or would be inadequate to ensure that the violation is neither profitable nor revenue neutral for the offender.[21]~~

Section 54. Section 9-15-9, "Multiple Dwelling Units and Occupancy- Specific Defenses," B.R.C. 1981, is amended to read as follows:

9-15-9. Multiple Dwelling Units ~~and Occupancy~~ - Specific Defenses.

(a) Specific Defenses to Alleged Violations Related to Multiple Dwelling Units: If a charge of violation of any provision of chapter 9-5, "Modular Zone System," 9-6, "Use Standards," 9-7, "Form and Bulk Standards," 9-8, "Intensity Standards," or 9-9, "Development Standards," B.R.C. 1981, is premised solely upon the multiple dwelling units provisions of subsection 9-16-1(c), B.R.C. 1981, it is a specific defense to such charge that, on a continuing basis, the residents of the dwelling unit share utilities and keys to all entrances to the property and that they function as a single housekeeping unit. For purposes of this section, to function as a single housekeeping unit means to share major functions associated with residential occupancy and to share a single common kitchen as the primary kitchen.

~~(b) Specific Defenses to Alleged Violations Related to Occupancy of Units for Guest Occupancy: If a charge of violation of any provision of chapters 9-6, "Use Standards," and 9-7, "Form and Bulk Standards," or section 9-8-5, "Occupancy of Dwelling Units," B.R.C. 1981, is premised upon exceeding allowable occupancy limits based upon the number of persons residing in or occupying a dwelling unit, it is a specific defense as to any alleged occupant that such person spent the night in the unit without remuneration as a social guest for periods of time which never exceeded a cumulative total of fourteen nights in any ninety day period. Spending the night for the purposes of this subsection means to be on the premises during the hours of 12:00 midnight through 5:00 a.m., or to sleep on the premises for more than five hours at any time in any twenty-four hour period. If the defense is established as to an alleged occupant, that person shall be~~

[21] As occupancy is no longer a Title 9 violation, this language is being moved from Title 9 and to Title 10 below.

~~considered a social guest and not an occupant for the purposes of proof of the charge of violation. Conversely, any person who spends more than a cumulative total of fourteen nights in any ninety day period in any dwelling unit is an occupant of that unit for those nights for the purposes of the occupancy limits established in this title.~~

~~(c) Specific Defenses to Alleged Violations Related to Occupancy of a Unit Which Is a Rental Property: The following shall constitute specific defenses to any alleged violation of subsection 9-8-5(a), B.R.C. 1981, relating to the occupancy of units:~~

~~(1) It shall be a specific defense to an alleged violation of subsection 9-8-5(a), B.R.C. 1981, that a defendant is a nonresident landlord or nonresident property manager and:~~

~~(A) Prior to the initiation of the prosecution process, the defendant undertook and pursued means to avoid over-occupancy violations by:~~

~~(i) complying with advertising requirements of Chapter 10-3-2, B.R.C. 1981 and the posting requirements of Chapter 10-3-20, B.R.C. 1981;~~

~~(ii) receiving rent payments from only those persons on a lease that includes no more than the number of tenants associated with the occupancy limitation of the unit; and~~

~~(iii) requiring each tenant to acknowledge, through a lease provision or otherwise, the established occupancy limitation for the unit; and~~

~~(B) The defendant had no actual knowledge of the over-occupancy of the relevant rental housing property prior to the initiation of the prosecution process. However, this specific defense shall not apply when a defendant reasonably should have been aware of the occupancy violation.~~

~~(C) For the purposes of this subsection, the initiation of a prosecution process occurs when any of the following events occurs:~~

~~(i) A potential defendant is first contacted by a city investigator in connection with the investigation of an occupancy violation;~~

~~(ii) A summons and complaint alleging an occupancy violation is served upon a defendant; or~~

~~(iii) A criminal complaint is filed against a defendant alleging an occupancy violation.~~

~~(D) For purposes of this subsection, a nonresident landlord or nonresident property manager means a person who is neither a full-time nor part-time resident of the property that he or she owns or manages.~~

Section 55. Section 9-14-3, "Design Goals for the Form-Based Code Areas," B.R.C. 1981, is amended to read as follows:

9-14-3. DESIGN GOALS FOR THE FORM-BASED CODE AREAS

The requirements of this chapter are intended to accomplish the following objectives:

(a) **Character, Context, and Scale.** Preserve or enhance the character, context, and scale planned for the area while supporting a more sustainable future by accommodating future residents, reducing dependence on single occupant vehicles, increasing energy efficiency, and promoting safe transportation options for pedestrians and bicycles.

(b) **Human-Scaled Building Design.** Design to a human scale and create a safe and vibrant pedestrian experience.

(c) **Building Design Quality and Aesthetics.** Design high-quality buildings that are compatible with the character of the area or the character established by adopted plans for the area through simple, proportional, and varied design, high quality and natural building materials that create a sense of permanence, and building detailing, materials and proportions.

(d) **A Variety of Housing Types.** Produce a variety of housing types, such as ~~multifamily~~multi-unit dwelling units, townhouses, and detached ~~single family~~dwelling units, as well as a variety of lot sizes, number of bedrooms per unit, and sizes of units within the form-based code area.

(e) **Adaptable Buildings.** Build adaptable buildings with flexible designs that allow changes in uses over time.

(f) **Provision of Outdoor Space.** Provide outdoor space that is accessible and close to buildings. Active and passive recreation areas will be designed to meet the needs of anticipated residents, occupants, employees, and visitors to the property.

(g) **Support of Multi-Modal Mobility.** Provide safe and convenient multi-modal connections and promote alternatives to the single occupant vehicle. Connections shall be accessible to the public within the project and between the project and the existing and proposed transportation systems, including, without limitation, streets, bikeways, paseos, and multi-use paths.

Section 56. Section 9-14-4, "Organization and Scope," B.R.C. 1981, is amended to read as follows:

9-14-4. ORGANIZATION AND SCOPE

This section describes how this chapter is organized to provide the user with some guidance using this chapter and it addresses the scope of its application.

(a) **Organization.** This chapter is organized into the following sections:

(1) **Sections 9-14-1 through 9-14-8: General Provisions.** The general provisions include a purpose statement for the form-based code, a description of where the requirements for the form-based code apply, a description of this chapter's organization and scope, the regulating plans for each form-based code area, and definitions that apply to the terms of this chapter.

(2) **Sections 9-14-9 through 9-14-13: Site Design.** These sections establish general site design and minimum outdoor space requirements, applicable to all form-based code areas, unless otherwise specified. Outdoor space types are established to guide the design of common outdoor spaces.

(3) **Sections 9-14-14- through 9-14-26: Building Types.** These sections establish a variety of building types and building form, design, location, and use requirements applicable to each building type. The regulating plans determine which building type may be used on a particular site.

(4) **Sections 9-14-27- through 9-14-33: Building Design.** These sections establish general building design requirements that are applicable to all of the building types, unless otherwise stated.

(b) **Scope.** The requirements of this chapter supplement those imposed on the same lands by underlying zoning provisions and generally applicable development standards of this title and other ordinances of the city. If there is a conflict between the requirements of this chapter and Title 9, "Land Use Code," B.R.C. 1981, the standards of this section control. The following describes how specific requirements of this title relate to requirements of this chapter:

(1) **Chapter 9-6: Use Standards.** Chapter 9-6, "Use Standards," B.R.C. 1981, regulates uses which are permitted, conditionally permitted, prohibited, or which may be permitted through use review. Additional use standards may be established for the different building types in sections M-1-15 through M-1-19 of this chapter.

(2) **Chapter 9-7: Form and Bulk Standards.** This chapter supersedes the standards in Chapter 9-7, "Form and Bulk Standards," B.R.C. 1981, with the exception of Sections 9-7-3, "Setback Encroachments," 9-7-5, "Building Heights," and 9-7-7, "Building Heights, Appurtenances," B.R.C. 1981. Building height shall be measured in accordance with the requirements of Section 9-7-5, B.R.C. 1981.

(3) **Chapter 9-8: Intensity Standards.** This chapter supersedes the standards in Chapter 9-8, "Intensity Standards," B.R.C. 1981, with the exception of Sections 9-8-5, "Occupancy of Dwelling Units," 9-8-6, "Density ~~Occupancy~~ Equivalencies for Group Residences and Hostels," and 9-8-7, "Density ~~and Occupancy~~ of Efficiency Living Units," B.R.C. 1981.

(4) **Chapter 9-9: Development Standards.** Chapter 9-9, "Development Standards," B.R.C. 1981, applies to developments that are regulated by this chapter as follows:

(5) **Applicable Sections.** The following sections of Chapter 9-9, "Development Standards, " B.R.C. 1981, are applicable:

(A) **9-9-1.** Intent.

(B) **9-9-2.** General Provisions.

(C) **9-9-4.** Public Improvements.

(D) **9-9-5.** Site Access Control, in addition to the access location requirements in Section M-1-11(a) "Driveways," B.R.C. 1981.

(E) **9-9-6.** Parking Standards.

(F) **9-9-7.** Sight Triangles.

(G) **9-9-8.** Reservations, Dedication, and Improvement of Right-of-way.

(H) **9-9-9.** Loading.

(I) **9-9-10.** Easements.

(J) **9-9-12.** Landscape and Screening Standards.

(K) **9-9-13.** Streetscape Design Standards, in addition to the requirements established in M-1-10, Streetscape Design Requirements.

(L) **9-9-14.** Parking Lot Landscape Standards.

(M) **9-9-15.** Fences and Walls.

(N) **9-9-16.** Lighting, Outdoor.

(O) **9-9-17.** Solar Access.

(P) **9-9-18.** Trash Storage and Recycling Areas.

(Q) **9-9-19.** Swimming Pools, Spas, and Hot Tubs.

(R) **9-9-20.** Addressing.

(S) **9-9-21.** Signs.

(T) **9-9-22.** Trip Generation Requirements for the MU-4, RH-6, and RH-7 Zoning Districts.

(6) **Superseded Sections.** The following sections of Chapter 9-9, "Development Standards," B.R.C. 1981, are superseded by this chapter:

(A) 9-9-3, Building Design, is superseded by this chapter.

(B) 9-9-11, Useable Open Space, is superseded by the requirements of this chapter.

(c) **Other Sections and Ordinances.** The Boulder Revised Code and other ordinances of the city are applicable unless expressly waived or modified in this chapter. If there is a conflict between the requirements of this chapter and other portions of the Boulder

Revised Code other than Title 9, "Land Use Code," B.R.C. 1981, the most restrictive standards shall control.

Section 57. Section 9-16-1, “General Definitions,” B.R.C. 1981, is amended to read as follows:

9-16-1. General Definitions.

Breezeway means a roofed at grade open passage connecting a detached ~~single-family~~ dwelling unit to an accessory building. A breezeway is not a space enclosed by walls.

Building coverage means the maximum horizontal area within the outer perimeter of the building walls, dividers, or columns at ground level or above, whichever is the greater area, including, without limitation, breezeways, courts, and exterior stairways, but excluding:

(1) Uncovered decks, stoops, patios, terraces, and stairways, all less than thirty inches high;

(2) The outer four feet of completely open, uncovered, cantilevered balconies that have a minimum of eight feet vertical clearance below;

(3) Up to three hundred square feet of a ~~single-family~~ detached ~~residence~~ dwelling unit front porch that is adjacent to a street;

(4) Up to one hundred fifty square feet of additional porch area not located in the front yard for a ~~single-family~~ detached ~~residence~~ dwelling unit;

(5) One accessory building, no larger than eighty square feet in size and no taller than ten feet in height, associated with a ~~single-family~~ detached ~~residence~~ dwelling unit; and

(6) Up to thirty inches of a roof or a breezeway overhang.

Conveyance zone means those portions of the floodplain required for the passage or conveyance of the one hundred-year flood. The conveyance zone is delineated based on an equal encroachment methodology (measured in volume of water), which is applied to the floodplain from the edges of the flood channel to a point where the one-hundred-year flood profile will be raised no more than six inches, after considering a reasonable expectation of blockage at bridges and other obstructions by flood-borne debris. The city may, in its discretion, delineate the conveyance zone on city owned land or right-of-way based on unequal encroachment to minimize delineation on other properties. The conveyance zone is equivalent to a floodway delineation based on a six-inch rise. (Floodplain)

~~*Cooperative housing unit* has the same meaning as set forth in Section 10-1-1, "Definitions," B.R.C. 1981.~~ [22]

Courtyard means any open, unclimatized space, without a roof, bounded by building walls for at least seventy-five percent of its perimeter.

Expansion of nonconforming use means any change or modification to a nonconforming use that constitutes:

(1) An increase in the ~~occupancy,~~ floor area, required parking, traffic generation, outdoor storage, or visual, noise, or air pollution;

(2) Any change in the operational characteristics which may increase the impacts or create adverse impacts to the surrounding area including, without limitation, the hours of operation, noise, or the number of employees;

(3) The addition of bedrooms to a dwelling unit, except a ~~single-family~~ detached dwelling unit; or

(4) The addition of one or more dwelling units.

Floor area for detached ~~single-family~~ dwelling units means the total habitable square footage of all levels measured to the outside surface of the exterior framing, or to the outside surface of the exterior walls if there is no exterior framing or portions thereof, which includes stairways, storage, and mechanical rooms internal to the structure, but excluding garages. (Inclusionary Housing)

Housing type means the particular form which an attached or detached dwelling unit takes, including, without limitation, the following: ~~single-family~~ detached ~~houses~~dwelling units and mobile homes; ~~single-family~~ attached ~~dwellings~~ dwelling units such as townhouses and row houses; duplexes, triplexes, and apartments.

Townhouse means an attached ~~single-family~~ dwelling unit located or capable of being located on its own lot, and ~~is~~ separated from adjoining dwelling units by a wall extending from the foundation through the roof which is structurally independent of the corresponding wall of the adjoining unit.

Transitional housing means a facility providing long-term housing in multi-~~family~~ unit dwelling units with or without common central cooking facilities, where participation in a program of supportive services is required as a condition of residency to assist tenants in working towards independence from financial, emotional, or medical conditions that limit their ability to obtain housing for themselves.

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[22] This use is being removed because it is inconsistent with the state law on occupancy. The coop sections of the code are based on allowing occupancies above five unrelated persons with special approval. This conflicts with the state law and thus, all coop sections are proposed for removal from the Boulder Revised Code. Occupancy within units would just have to meet the current International Property Maintenance Code (IPMC) occupancy limits that are based on established life safety standards as noted in the state law.

Section 58. Section 10-1-1, "Definitions," B.R.C. 1981, is amended to read as follows:

10-1-1. Definitions.

~~*Cooperative* means a housing arrangement in which residents share expenses, ownership or labor.~~

~~*Cooperative housing unit* means a dwelling unit in a private equity not-for-profit, permanently affordable cooperative or rental cooperative.~~[23]

Rooming house means an establishment where, for direct or indirect compensation, lodging, with or without kitchen facilities or meals, is offered for one month or more for three or more roomers living independently within rooming units ~~not related to the family of the heads of the household.~~

Rooming unit means a type of housing accommodation that consists of a room or group of rooms for a roomer, arranged primarily for sleeping and study, and that may include a private bath but does not include a sink or any cooking device.

Section 59. Section 10-2-2, "Adoption of International Property Maintenance Code With Modifications," B.R.C. 1981, is amended to read as follows:

10-2-2. Adoption of International Property Maintenance Code With Modifications.

(a) The 2018 edition of the *International Property Maintenance Code* (IPMC) of the International Code Council is hereby adopted by reference as the City of Boulder Property Maintenance Code and has the same force and effect as though fully set forth in this chapter, except as specifically amended for local application by this chapter.

(b) IPMC Appendix chapters A, "Boarding Standard," B, "Rental Housing Inspections," and C, "Energy Efficiency Requirement - Existing Residential Rental Structures Energy Conservation," are adopted.

(c) For ease of reference, the following identifies all chapters, sections and appendices of the published and adopted IPMC and includes specific amendments for local application. Chapter, Section, Subsection, or Appendix numbers of provisions not amended appear, followed by the words, "No changes." The amended text of specifically amended provisions

[23] This use is being removed because it is inconsistent with the state law on occupancy. The coop sections of the code are based on allowing occupancies above five unrelated persons with special approval. This conflicts with the state law and thus, all coop sections are proposed for removal from the Boulder Revised Code. Occupancy within units would just have to meet the current International Property Maintenance Code (IPMC) occupancy limits that are based on established life safety standards as noted in the state law.

appears below. Chapter, Section, Subsection, or Appendix numbers of any provisions not adopted appear, followed by the word, "Deleted."

…

SECTION 106
VIOLATIONS

106.1 Violations.

(a) General Provisions:

(1) No person shall erect, construct, enlarge, alter, extend, repair, move, remove, improve, convert, demolish, equip, use, occupy, or maintain any building or structure in the city, or cause or permit the same to be done, except in conformity with all of the provisions of this code and in conformity with the terms and conditions of approval issued under this code, or of any directive of the code official. No person shall violate a provision of this code, or fail to comply therewith or with any of the requirements thereof. No person shall fail to comply with any order issued by the code official under this code.

(2) In accordance with the provisions of Section 5-2-11, "Prosecution of Multiple Counts for Same Act," B.R.C. 1981, each day during which illegal construction, alteration, maintenance, occupancy, or use continues, constitutes a separate offense remediable through the enforcement provisions of this code.

(3) The owner, tenant, and occupant of a structure or land and the agents of each of them are jointly and severally liable for any violation of this code with respect to such structure or land.

(4) The remedies for any violation of any provision of this code or of any permit, certificate, or other approval issued under this code or other City of Boulder code, or of any directive of the code official, may be pursued singly or in combination.

(5) If any person fails or refuses to pay when due any charge imposed under this section, the code official 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.

(6) If an order under Section 107 is not complied with, the code official may institute any appropriate proceeding at law or in equity to restrain, correct, or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or the order or direction made pursuant thereto. The code official may charge the cost of any action taken to correct a violation, plus up to fifteen percent of such cost for administration, to the property owner. If any property owner fails or refuses to pay when due any charge imposed under this section, the code official may, in addition to taking other collection remedies, certify due any unpaid charges, including interest, to the Boulder County Treasurer, to be levied against the person's property for collection by the county in the same manner as delinquent general taxes upon such property are collected, under the procedures described by Section 2-2-12, "City Manager May Certify Taxes, Charges, and Assessments to County Treasurer for Collection," B.R.C. 1981.

(b) Administrative Procedures and Remedies:

(1) If the code official finds that a violation of any provision of this code or of any approval granted under this code exists, the manager, after notice and an opportunity for hearing under the procedures prescribed by Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, may take any one or more of the following actions to remedy the violation:

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

(i) For the first violation of the provision or approval, $100;

(ii) For the second violation of the same provision or approval, $300; and

(iii) For the third violation of the same provision or approval, $1,000;

(B) For a violation concerning the use of a residential building under a rental license, revoke such license;

(C) Require the filing of a declaration of use as provided in subsection (e); or

(D) Issue an order reasonably calculated to ensure compliance with the provisions of this code or any approval granted under this code.

(2) Prior to the hearing, the code official may issue an order that no person shall perform any work on any structure or land, except to correct any violation found by the code official to exist with respect to such structure or land.

(3) If notice is given to the code official 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 code official will reinspect the structure or land. If the code official finds that the violation has been corrected, the manager may cancel the hearing.

(4) No person shall fail to comply with any action taken by the code official under this section.

(c) Criminal Penalties. Violations of this code are punishable as provided in Section 5-2-4, "General Penalties," B.R.C. 1981.

(1) Occupancy Limitation Violations: Notwithstanding the provision of subsection (c), Criminal Penalties, of this section, the following specific sentencing considerations shall apply to fines imposed for violations of Section 404, Occupancy Limitations, of this code:

(A) The court shall consider any evidence presented by the defendant that a potential fine would be confiscatory. A confiscatory fine is a fine that would deprive a normally capitalized owner of the ability to continue operating a rental housing business of the sort involved in the case before the court. No fine that is confiscatory shall be enforced by the court.

(B) In imposing a fine in any single case or in any consolidated cases, the court may weigh all factors normally and properly considered in connection with the imposition of fines, including the seriousness of the violation, the past record of the defendant, the economic circumstances of the defendant and all mitigating or aggravating factors relevant to the violation or to the defendant. In addition, in determining the amount of any fine, the court may consider:

(i) The imposition of a fine that would deprive the defendant of any illegal profit collected because of the occurrence of the over-occupancy violation or violations on the rental housing property;

(ii) The imposition of a reasonable penalty in addition to any level of fine that is attributable to illegally obtained profit; and

(iii) The imposition of such additional fine as is determined by the court to constitute a reasonable amount to be suspended in order to ensure compliance with any terms of probation imposed by the court.

(C) No fine imposed in a single case alleging multiple dates of violation, nor any fine in consolidated cases alleging multiple days of violation, shall exceed the maximum fine that might be imposed for fifteen separate violations unless the court finds special aggravating circumstances. Where special aggravating factors are at issue, the following procedures shall apply:

(i) The defendant shall be entitled to ten days' notice of any special aggravating factors upon which the prosecution intends to rely at the sentencing hearing or about which, based upon evidence previously presented, the court is concerned. If necessary in order to provide such notice, a defendant shall be entitled to a continuance of the sentencing hearing.

(ii) A judicial finding of the existence of special aggravating factors shall not mandate that the court impose any particular level of fine but will, rather, provide the sentencing court with discretion to determine a fine based upon all the criteria set forth in this subsection.

(iii) Special aggravating factors, for the purpose of this subsection, shall require a judicial finding of one or more of the following:

a. The occupancy violations at issue were flagrant and intentional on the part of the defendant;

b. The defendant, after learning of the over-occupancy condition, failed to attempt corrective action over a sustained period of time; or

c. A fine equivalent to the maximum fine permitted for fifteen separate violations would be inadequate to disgorge the defendant of illegal profits obtained as a consequence of the violations or would be inadequate to ensure that the violation is neither profitable nor revenue neutral for the offender.

(2) Specific Defenses to Alleged Violations:

(A) Specific Defenses to Alleged Violations Related to Occupancy of Units for Guest Occupancy: Occupancy limitation violations are premised upon exceeding allowable occupancy limits based upon the number of persons residing in or occupying a dwelling unit pursuant to Section 404, Occupancy Limitations. It is a specific defense as to any alleged occupant that such person spent the night in the unit without remuneration as a social guest for periods of time which never exceeded a cumulative total of fourteen nights in any ninety-day period. Spending the night for the purposes of this subsection means to be on the premises during the hours of 12:00 midnight through 5:00 a.m., or to sleep on the premises for more than five hours at any time in any twenty-four hour period. If the defense is established as to an alleged occupant, that person shall be considered a social guest and not an occupant for the purposes of proof of the charge of violation. Conversely, any person who spends more than a cumulative total of fourteen nights in any ninety-day period in any dwelling unit is an occupant of that unit for those nights for the purposes of the occupancy limits established in this code.

(B) Specific Defenses to Alleged Violations Related to Occupancy of a Unit Which Is a Rental Property: The following shall constitute specific defenses to any alleged violation of Section 404 of this code relating to the occupancy of units:

(i) It shall be a specific defense to an alleged violation of Section 404 that a defendant is a nonresident landlord or nonresident property manager and:

a. Prior to the initiation of the prosecution process, the defendant undertook and pursued means to avoid over-occupancy violations by:

1. receiving rent payments from only those persons on a lease that includes no more than the number of tenants associated with the occupancy limitation of the unit; and

2. requiring each tenant to acknowledge, through a lease provision or otherwise, the established occupancy limitation for the unit; and

(ii) The defendant had no actual knowledge of the over-occupancy of the relevant rental housing property prior to the initiation of the prosecution process. However, this specific defense shall not apply when a defendant reasonably should have been aware of the occupancy violation.

(iii) For the purposes of this paragraph, the initiation of a prosecution process occurs when any of the following events occurs:

1. A potential defendant is first contacted by a city investigator in connection with the investigation of an occupancy violation;

2. A summons and complaint alleging an occupancy violation is served upon a defendant; or

3. A criminal complaint is filed against a defendant alleging an occupancy violation.

(iv) For purposes of this paragraph, a nonresident landlord or nonresident property manager means a person who is neither a full-time nor part-time resident of the property that he or she owns or manages.[24]

(d) Other Remedies. The city attorney may maintain an action for damages, declaratory relief, specific performance, injunction, or any other appropriate relief in the District Court in and for the County of Boulder for any violation of any provision of this code or any approval granted under this code.

(e) Declaration of Use. If the code official determines that a person is using a structure in a way that might mislead a reasonable person to believe that such use is a use by right or otherwise authorized by this title, the code official may require such person to sign under oath a declaration of use that defines the limited nature of the use and to record such declaration in the office of the Boulder County Clerk and Recorder against the title to the land. In addition to all other remedies and actions that the code official is authorized to use under the Boulder Revised Code or other applicable federal, state, or local laws to enforce the provisions of this code, the code official is authorized to withhold any approval affecting such structure or land,

[24] This language is the enforcement language being moved from Chapter 9-15 as noted above.

including, without limitation, a building permit, use review, site review, subdivision, floodplain development permit, or wetland permit, until such time as the person submits a declaration of use that is in a form acceptable to the code official.

106.2—106.3 Deleted.

106.4 Violation Penalties. Deleted.

106.5 Abatement of Violation. No changes.

Section 60. Section 10-3-2, "Rental License Required Before Occupancy and License Exemptions.," B.R.C. 1981, is amended to read as follows:

10-3-2. Rental License Required Before Occupancy and License Exemptions.

(a) No operator shall allow, or offer to allow through advertisement or otherwise, any person to occupy any dwelling, dwelling unit or rooming unit as a tenant or lessee or otherwise for a valuable consideration unless each room or group of rooms constituting the rental property has been issued a valid rental license by the city manager, provided however, an operator may advertise for a rental of thirty days or longer, if the operator has submitted a complete rental licensing application or is advertising for pre-leasing of new construction. Any advertisement shall include the rental licensing number once assigned by the city manager.

(b) Buildings, or building areas, described in one or more of the following paragraphs are exempted from the requirement to obtain a rental license from the city manager, provided, however that the exemptions in subsections (b)(1) and (b)(2) below shall not apply to short-term rentals. No operator shall allow any person to occupy any dwelling, dwelling unit or rooming unit exempted pursuant to subsections (b)(1) and (b)(2) below prior to submitting to the city manager an Affidavit of Exemption for the dwelling, dwelling unit or rooming unit. No person shall be issued any civil penalty or summons for failure to submit an Affidavit of Exemption, unless the person has previously been advised in writing of this requirement.

(1) Any dwelling unit occupied by the owner or members of the owner's family who are at least 21 years of age and housing ~~no more than two~~ roomers who are unrelated to the owner or the owner's family. An owner includes an occupant who certifies that the occupant owns an interest in a corporation, firm, partnership, association, organization or any other group acting as a unit that owns the rental property.

(2) A dwelling unit meeting all of the following conditions:

(A) The dwelling unit constitutes the owner's principal residence;

(B) The dwelling unit is temporarily rented by the owner for onea~~~~ period of time no greater than twelve consecutive months in any twenty-four-month period;

(C) The dwelling unit was occupied by the owner immediately before its rental;

(D) The owner of the dwelling unit is temporarily living outside of Boulder County; and

(E) The owner intends to re-occupy the dwelling unit upon termination of the temporary rental period identified in subparagraph (b)(2)(B) of this section.

(3) Commercial hotel and motel occupancies which offer lodging accommodations primarily for periods of time less than thirty days, but bed and breakfast facilities are not excluded from rental license requirements.

(4) Common areas and elements of buildings containing attached, but individually owned, dwelling units.

Section 61. Section 10-3-19, "Short-Term Rentals," B.R.C. 1981, is amended to read as follows:

10-3-19. Short-Term Rentals.

(a) Short-term rentals are prohibited unless the city manager has issued a valid short-term rental license for the property.

(b) The city manager shall only issue a rental license for short-term rental to:

(1) A natural person, whose name appears on the deed to the property;

(2) A trust, if the beneficiary of the trust is a natural person; or

(3) A not-for-profit corporation licensed pursuant to Section 501(c) of the Internal Revenue Code, provided, however, the city manager shall have discretion to reject any application for a not-for-profit corporation if the city manager deems the application to be inconsistent with the goals of this chapter, which include allowing not-for-profits the opportunity support their mission through short-term rentals, preserving long term rental units and preventing investor owned short-term rentals.

(c) Any application for a rental license for short-term rental shall include the following:

(1) If the applicant is a natural person, the application must include a true copy of a Colorado driver's license or Colorado identification card showing the dwelling unit to be licensed is the applicant's address and a sworn statement that said dwelling unit is the applicant's principal residence;

(2) If the applicant is a trust, a true copy of a Colorado driver's license or Colorado identification card showing the dwelling unit to be licensed is a beneficiary's address and a sworn statement that said dwelling unit is a beneficiary's principal residence;

(3) If the applicant is a not-for-profit corporation, the application shall include proof of the corporation's status under Section 501(c) of the Internal Revenue Code and a statement of the manner in which short-term rentals serve the organization's charitable purpose;

(4) A certification that the dwelling unit is equipped with operational smoke detectors, carbon monoxide detectors and other life safety equipment as may be required by the city manager; and

(5) The names and telephone numbers of two contacts who for owner-operated rentals can be permanent residents on the property and who are capable of responding to the property within sixty minutes.

(d) If the applicant is a natural person, the applicant's name must appear on the deed to the property on which the dwelling unit to be rented is located, and the applicant must possess at least a fifty percent fee simple ownership interest in the property.

(e) If the applicant is a trust, the trust must possess at least a fifty percent fee simple ownership interest in the property.

(f) The city manager shall not issue a license for short-term rental of a property in which an entity that is not tax exempt under Section 501(c) of the Internal Revenue Code holds a fee simple ownership interest.

(g) The city manager shall not issue a license for short-term rental of a permanently affordable dwelling unit.

(h) Short-term rentals shall not be subject to the inspection requirements of Subsection 10-3-3(b), "Terms of Licenses," B.R.C. 1981, except as set forth in subsection (o).

(i) The occupancy of a dwelling unit rented as a short-term rental shall not exceed the occupancy permitted pursuant to ~~Section 9-8-5, "Occupancy of Dwelling Units," B.R.C. 1981 and~~ Chapter 10-2, "Property Maintenance Code," B.R.C. 1981.~~; provided, however, for the purposes of this section only, the licensee and people related to the licensee shall be counted as one person~~.

(j) The dwelling unit rented as a short-term rental shall be the licensee's principal residence.

(k) No person shall rent a dwelling unit in a manner that requires or encourages a person to sleep in an area that is not habitable as that term is used in the International Property Maintenance Code as adopted in Section 10-2-2, "Adoption of the International Property Maintenance Code with Modifications," B.R.C. 1981.

~~(l) No person shall advertise a short-term rental, unless the advertisement includes the license number and the maximum unrelated occupancy permitted in the unit.~~ [25]

(~~m~~l) The city manager shall not issue more than one short-term rental license to any applicant.

(~~n~~m) The city manager may not issue more than one rental license pursuant to the standards of this chapter related to the use of a dwelling or dwelling unit. The city manager shall not issue a short-term rental license for and no person shall rent as a short-term rental any dwelling, dwelling unit, rooming unit, room or portion of any of the foregoing if the dwelling, dwelling unit, or rooming unit is otherwise licensed as a rental under this

[25] With occupancy rules changing and being based on the IPMC, it will not be a readily known what the occupancy limit is in a unit as it is based on bedroom size, number of bedrooms, provision of dining and living rooms. Therefore, it is unreasonable to continue to require the occupancy limit to be advertised.

chapter or is subject to an affidavit of exemption filed with the city manager pursuant to Subsection 10-3-2(b), "Rental License Required Before Occupancy and License Exemptions," B.R.C. 1981; and, if a dwelling, dwelling unit, rooming unit, room or any portion of the foregoing is licensed as a short-term rental, the city manager shall not issue a rental license for a rental other than short-term rental for and no person shall rent other than for short-term rental the dwelling, dwelling unit, rooming unit, room, or any portion of any of the forgoing.

(~~o~~n) An accessory dwelling unit or a principal dwelling unit on a ~~single-family~~detached dwelling unit lot or parcel with an accessory unit may not be rented as a short-term rental unless all the following requirements are met:

(1) Both the accessory dwelling unit and the principal dwelling unit were legally established by February 1, 2019;

(2) A current and valid short-term rental license exists for the unit;

(3) If the accessory dwelling unit is licensed for short-term rental, only the accessory dwelling unit and not any other dwelling unit on the same property may be licensed or used as a rental;

(4) If a principal dwelling unit is licensed for short-term rental, then no accessory dwelling unit on the same property may be licensed or used as a rental;

(5) An accessory dwelling unit may not be rented as a short-term rental for more than one hundred twenty days in any calendar year;

(6) Notwithstanding the provisions of subsection (i), the occupancy of the accessory dwelling unit and the principal dwelling unit must meet the requirements of Subsection 9-8-5(b), B.R.C. 1981; and

Section 62. Section 10-3-20, “Occupancy,” B.R.C. 1981, is amended to read as follows:

10-3-20. ~~Occupancy.~~ Reserved.[26]

~~(a) Every operator of any property with fewer than five dwelling units, shall at the time any dwelling unit is shown to any prospective renter, post conspicuously on the inside of the main entrance to each dwelling unit a sign listing a maximum occupancy number that shall be no greater than the maximum number of unrelated individuals permitted under Section 9-8-5, "Occupancy of Dwelling Units," B.R.C. 1981 in a form specified by the city manager. Any such sign may include an occupancy limit smaller than that allowed by Section 9-8-5.~~

~~(b) Each license shall include a notation of the legal occupancy, including the number of unrelated individuals permitted for each dwelling unit covered by the license. Acceptance of~~

[26] This section is superseded due to it restrictions on the number of unrelated individuals. The IPMC specifies the occupancy limits.

~~the license shall constitute a waiver of any claim for a non-conforming occupancy in excess of the occupancy stated on the license. The notation on the license shall also not provide the basis for an assertion of non-conforming occupancy.~~

~~(c) Each advertisement for rental shall include a statement of the maximum occupancy, such statement shall include a number no greater than the number of unrelated individuals permissible pursuant to Section 9-8-5, B.R.C. 1981 of the dwelling unit to be rented. Any such advertisement may include an occupancy limit smaller than that allowed by Section 9-8-5.~~

Section 63. Chapter10-11, "Cooperative Housing," B.R.C. 1981, is amended to read as follows:

Chapter 11 ~~Cooperative Housing~~ Reserved.[27]

~~10-11-1. Legislative Intent.~~

~~(a) The City Council intends to facilitate cooperative living arrangements. The Council finds that cooperative living arrangements can provide an affordable alternative for living in Boulder. In addition, cooperative arrangements can provide supportive and fulfilling community for their residents. The City Council seeks to balance the benefits of cooperative living against the impacts from the increased density that comes along with cooperative living. The City Council also is concerned about cooperatives competing in a tight housing market with families seeking single family homes. The City Council intends to monitor the implementation and effects of this ordinance.~~

~~(b) The City Council intends that all licensed cooperatives be legitimate cooperatives. A legitimate cooperative is a group living arrangement in which the residents have a high degree of social cohesion and teamwork. The residents typically govern through consensus and share responsibilities and resources. New members are typically selected by the community's existing membership, rather than by real estate agents, property managers or non-resident landowners.~~

~~Ordinance No. 8119 (2017)~~

~~10-11-2. Cooperative License Required Before Occupancy.~~

~~No person shall occupy, allow, or offer to allow through advertisement or otherwise, any person to occupy any cooperative housing unit unless the cooperative housing unit has been issued a valid cooperative housing license by the city manager. Nothing in this chapter shall relieve any person of the obligation to comply with any other requirement of this code, including, but not limited to the requirements of Chapter 10-3 "Rental Licenses," B.R.C. 1981, the requirements of~~

[27] The coop sections of the code are based on allowing occupancies above five unrelated persons with special approval. This conflicts with the state law and thus, all coop sections are proposed for removal from the Boulder Revised Code. Occupancy within units would just have to meet the current International Property Maintenance Code (IPMC) occupancy limits that are based on established life safety standards as noted in the state law.

~~Chapter 10-2, "Property Maintenance Code," Appendix C - "Energy Efficiency Requirements," B.R.C. 1981 and the requirements of Section 10-2-2 "Adoption of International Property Maintenance Code With Modifications," B.R.C. 1981.~~

~~Ordinance No. 8119 (2017)~~

~~10-11-3. Cooperative Housing Licenses.~~

~~(a) License terms shall be as follows:~~

~~(1) Licenses shall expire four years from issuance or when ownership of the licensed property is transferred.~~

~~(A) In addition to any other applicable requirements, new licenses and renewals shall require that the licensee submit to the city manager a completed current baseline (for a new license) or renewal inspection report, on forms provided by the City. The report shall satisfy the following requirements:~~

~~(i) The section of the report concerning fuel burning appliances must be executed by a qualified heating maintenance person certifying compliance with those portions of Chapter 10-2, "Property Maintenance Code," B.R.C. 1981, for which the report form requires inspection and certification.~~

~~(ii) The section of the report concerning smoke and carbon monoxide alarms must be executed by the operator certifying that the operator inspected the smoke and carbon monoxide alarms in the licensed property and that they complied with the requirements of Chapter 10-2, "Property Maintenance Code," B.R.C. 1981.~~

~~(iii) The section of the report concerning trash removal must be executed by the operator certifying that the operator has a current valid contract with a commercial trash hauler for removal of accumulated trash from the licensed property in accordance with Subsection 6-3-3(b), B.R.C. 1981.~~

~~(b) 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. Licenses not renewed within ninety days will be considered expired, requiring a new baseline inspection report.~~

~~(c) The city manager shall issue no more than ten new cooperative housing licenses in any calendar year. Provided, however, if in any calendar year, after the city manager issued ten licenses, there are fewer than two licenses issued to not-for-profit permanently affordable cooperatives, private equity cooperatives or rental cooperatives, the city manager may issue sufficient additional license so that there are at least two licensees issued in each category up to a total of no more than fourteen licenses for all categories in any calendar year.~~

~~If an application for a cooperative housing unit exceeds the limits set forth in this subparagraph (c), the city manager will place the applicant on a waiting list. Applicants on the waiting list shall be given priority for consideration of applications in the next calendar year.~~

~~(d) The boundary of a property on which a cooperative housing unit is located shall not be within five hundred feet from the boundary of the property on which another cooperative housing unit is located, but the city manager may permit two cooperative housing units to be located closer than five hundred feet apart if they are separated by a physical barrier, including, without limitation, an arterial, a collector, a commercial district or a topographic feature that avoids the need for dispersal. The planning department shall maintain a map showing the locations of all cooperative housing units in the city.~~

~~(e) Any Not-for-Profit Permanently Affordable Cooperative shall be permanently affordable. Affordability shall be measured by individual households. That is, a household consisting either of an individual or a family. Rents charged must be affordable to households earning no more than sixty percent of the area median income.~~

~~(f) A cooperative license may be issued to any group of natural persons or organization formed under Colorado law. If the applicant is an organization, all owners must be natural persons.~~

~~(g) No rental cooperative shall be located in a dwelling unit with less than two thousand square feet of habitable space nor in any dwelling unit that within five years prior to the application was modified to have two thousand square feet or more of habitable space.~~

~~(h) No cooperative shall be located in an agricultural, industrial or public zone. Cooperatives shall be permitted in all other zone districts.~~

~~(i) No person under twenty-one years of age may own an interest in a cooperative, in real property on which a cooperative is located or in an organization owning real property on which a cooperative is located.~~

~~(j) Any cooperative in which any person resides in return for valuable compensation shall be subject to the rental licensing provisions included in Section 10-3-2, "Rental License Required Before Occupancy and License Exemptions," B.R.C. 1981. The exceptions to the rental licensing requirements that are set forth in Section 10-3-2(b) shall not apply to any dwelling unit licensed pursuant to this chapter.~~

~~(k) No dwelling unit licensed pursuant to this chapter shall be licensed as or used as a short-term rental.~~

~~(l) Any attached accessory dwelling unit or detached accessory dwelling unit to a dwelling unit that is licensed pursuant to this chapter shall be part of the licensed cooperative housing unit and subject to the standards of this chapter. The occupants of the dwelling unit and accessory unit shall all be members of the cooperative. While such units are licensed as a cooperative housing unit under this chapter, neither the principal dwelling unit nor the accessory dwelling unit shall be required to be owner-occupied as would otherwise be required under Subparagraph 9-6-3(n)(1)(A)(iv), "Owner-Occupied," B.R.C. 1981.~~

~~Ordinance Nos. 8119 (2017); 8372 (2020); 8556 (2023); 8571 (2023)~~

~~10-11-4. License Application Procedure for Cooperative Housing Licenses.~~

~~(a) Only a Legitimate Cooperative may be an applicant for a cooperative housing license. A licensed cooperative may operate only with the written consent of the property owner, unless the cooperative is the owner.~~

~~(b) Every applicant for cooperative housing license shall submit the following:~~

~~(1) A written application for a license to the city, on official city forms provided for that purpose including:~~

~~(A) A housing inspector's certification of baseline inspection dated within twelve months before the application. Each licensee shall submit evidence of a renewal inspection every two years. The applicant shall make a copy of the inspection form available to city staff and residents of inspected units within fourteen days of a request;~~

~~(B) A report on the condition and location of all smoke and carbon monoxide alarms required by Chapter 10-2, "Property Maintenance Code," B.R.C. 1981, made and verified by the applicant. Each applicant shall submit a verification under this subsection every two years;~~

~~(C) A trash removal plan meeting the requirements of Section 6-3-3(b), B.R.C. 1981, made and verified by the applicant;~~

~~(D) A parking management plan meeting the requirements of Section 10-11-11, B.R.C. 1981, made and verified by the applicant;~~

~~(E) Evidence establishing compliance with Section 10-11-14 "Legitimate Cooperatives," B.R.C. 1981. The city manager shall not issue a cooperative housing license unless the applicant can be certified as meeting the criteria set forth in Section 10-11-14. Each licensee shall submit evidence of compliance with Section 10-11-14 every two years; and~~

~~(F) A list of all persons who have any ownership interest in any entity to be licensed.~~

~~(2) All applications shall be submitted at least thirty days prior to occupancy, provided, however, that any applicant that can demonstrate operation in the same dwelling unit as a legitimate cooperative on December 6, 2016 may submit an application while in occupation of that dwelling unit.~~

~~(c) Pay all license fees prescribed by Section 4-20-69, "Cooperative Housing Fee," B.R.C. 1981, at the time of submitting the license application.~~

~~(d) Any licensee shall provide the city manager with a report of any changes in the information required by paragraph (b)(1) above within thirty days of such change.~~

~~(e) The city manager may issue a conditional approval for any group that has met the requirements of Subsections (a), (b)(1)(E), (b)(1)(F).~~

~~(f) Within thirty days after initial occupancy, the licensee shall provide to the city manager a certification that the applicant has provided to a resident of each dwelling on the block face contact information for the applicant and the organization responsible for certifying the applicant. Provided, however, that no notice shall be required to any dwelling unit more than six hundred feet from the licensed cooperative.~~

~~(g) A plan showing legal bedroom spaces sufficient to accommodate the number of residents requested in the license application.~~

~~Ordinance Nos. 8119 (2017); 8218 (2017)~~

~~10-11-5. License Renewal Procedure for Cooperative Housing Units.~~

~~Every licensee of a cooperative housing unit shall follow the procedures in this section when renewing an unexpired license:~~

~~(a) Pay all license fees prescribed by Section 4-20-69, "Cooperative Housing Fee," B.R.C. 1981, before the expiration of the existing license.~~

~~(b) Submit to the city manager, on forms provided by the manager:~~

~~(1) A housing inspector's certification of renewal inspection within twelve months before application. The applicant shall make a copy of the inspection form available to city staff and residents of inspected units within fourteen days of a request;~~

~~(2) A report on the condition and location of all smoke and carbon monoxide alarms required by Chapter 10-2, "Property Maintenance Code," B.R.C. 1981, made and verified by the operator; and~~

~~(3) A trash removal plan meeting the requirements of Subsection 6-3-3(b), B.R.C. 1981, made and verified by the operator.~~

~~(4) A parking management plan meeting the requirements of Section 10-11-11, B.R.C. 1981, made and verified by the applicant.~~

~~(c) Take all reasonable steps to notify in advance all residents of the property of the date and time of the inspection. The operator shall be present and accompany the inspector throughout the inspection, unlocking and opening doors as required.~~

~~Ordinance No. 8119 (2017)~~

~~10-11-6. Temporary License.~~

~~If the inspection shows that there are violations of Chapter 10-2, "Property Maintenance Code," B.R.C. 1981, in the building, and the applicant cannot correct the deficiencies before the housing is to be occupied (in the case of a new cooperative housing unit) or the existing license expires (in the case of a renewal), the applicant may apply, on forms specified by the city manager, for a temporary license. If the manager finds, based on the number and severity of violations, that such a temporary license would not create or continue an imminent health or safety hazard to the public or the occupants, the manager may issue a temporary license. The manager shall specify the duration of the temporary license, for a period reasonably necessary to make the needed repairs and changes. Upon receipt of an additional certificate of inspection showing correction of~~

~~the deficiencies, and an additional housing license fee, the manager shall issue the cooperative housing license.~~

~~Ordinance No. 8119 (2017)~~

~~10-11-7. License Appeals.~~

~~Any applicant denied a temporary license, or aggrieved by the period of time allowed for correction, may appeal the denial or the time for correction, or both, as provided in Section 10-2-2, Section 111 "Means of Appeal," B.R.C. 1981. As to an appeal of the time reasonably required to correct a violation, the board shall either affirm the city manager's originally prescribed time or grant a longer time to correct the alleged violation.~~

~~Ordinance No. 8119 (2017)~~

~~10-11-8. Time of License Expiration.~~

~~Every rental license expires upon the earliest of the following dates:~~

~~(a) The expiration date on the license unless temporary authority is allowed under Section 10-11-6, "Temporary License," B.R.C. 1981, of this chapter;~~

~~(b) The effective date of any order or notice to vacate the property issued under any provision of law;~~

~~(c) The expiration of the temporary certificate of occupancy for the property if a permanent certificate of occupancy has not been issued; or~~

~~(d) The revocation of the certificate of occupancy for the property.~~

~~Ordinance No. 8119 (2017)~~

~~10-11-9. License Fees.~~

~~Applicants for any cooperative housing license, and applicants renewing an existing cooperative housing license, shall pay the license fees prescribed by Section 4-20-69, "Cooperative Housing Fee," B.R.C. 1981, upon submission of any license application.~~

~~Ordinance No. 8119 (2017)~~

~~10-11-10. Availability of License.~~

~~No person who holds a cooperative housing license shall fail to make the license available to anyone within seventy-two hours of receiving a request. Posting of a cooperative housing license at the property is not required.~~

~~Ordinance No. 8119 (2017)~~

~~10-11-11. Parking Management Plan Required.~~

~~Each applicant for a cooperative housing license shall prepare a parking management plan. Approval of any such plan shall be a condition of issuance of any cooperative housing license. The plan shall limit the number of automobiles to be parked in the public right-of-way to three. If the cooperative housing unit is located in a Neighborhood EcoPass district, the plan shall include a requirement that each resident who licensed to drive, acquire an EcoPass.~~

~~Ordinance No. 8119 (2017)~~

~~10-11-12. Compatibility with Neighborhoods.~~

~~Each cooperative shall at all times maintain compatibility with the neighborhood in which the cooperative is located. The licensee shall take all reasonable steps to reduce excessive parking on the public right of way and noise, trash and weeds on the property. A cooperative may be considered incompatible with the neighborhood if the city manager receives multiple complaints relating to parking on the public right of way, noise, trash or weeds in any twelve-month period. Complaints from a single person shall not be sufficient to cause a property to be incompatible with the neighborhood. Prior to making any determination that a cooperative is not compatible with the neighborhood, the city manager shall provide written notice to the licensee and encourage the licensee to address the complaints with the residents of the neighborhood.~~

~~Ordinance No. 8119 (2017)~~

~~10-11-13. Property Rights for Equity Cooperatives.~~

~~Cooperatives that are licensed pursuant to this chapter will have the following status under Title 9, "Land Use Code," B.R.C. 1981:~~

~~(a) Equity Cooperatives. Any licensed not-for-profit permanently affordable cooperative or private equity cooperative is considered a use of land for the purposes of Chapter 9-6, "Uses of Land," B.R.C. 1981. If the city changes its land use regulations, such cooperatives may continue as non-conforming uses under the requirements in Section 9-10-3, "Changes to Nonstandard Buildings, Structures, and Lots and Nonconforming Uses," B.R.C. 1981, provided that all of the requirement of the Boulder Revised code continue to be met.~~

~~(b) Rental Cooperatives. Any licensed rental cooperative is considered a dwelling unit purposes of Chapter 9-6, "Uses of Land," B.R.C. 1981 and not a use of land. Upon the abandonment, expiration, or revocation of such license, the property will continue to be considered a dwelling unit.~~

~~Ordinance No. 8119 (2017)~~

~~10-11-14. Legitimate Cooperatives.~~

~~(a) All applicants for cooperative housing licenses shall demonstrate as part of the licensing process that the community to be formed will be a legitimate cooperative. A legitimate cooperative is a group of individuals or an organization formed under Colorado law that, in addition to any other criteria adopted by the city manager, has the following:~~

~~(1) a documented governance structure;~~

~~(2) a list of the number of adults and dependents;~~

~~(3) a dedicated bank account; and~~

~~(4) bylaws that provide for the following:~~

~~(A) provisions prohibiting unlawful discrimination or harassment;~~

~~(B) a provision requiring regular meetings of all members;~~

~~(C) a decision-making structure;~~

~~(D) provisions for discipline or discharge of members;~~

~~(E) provisions for sharing of resources;~~

~~(F) provisions for selection of new members; and~~

~~(G) provisions for sharing information about the dedicated bank account.~~

~~(b) The city manager shall designate one or more Expert Cooperative Housing Organizations with ninety days after final adoption of this ordinance. An applicant shall seek training and certification by an Expert Cooperative Housing Organization. An applicant shall submit evidence of such training and certification as part of an application for a cooperative housing license.~~

~~Ordinance No. 8119 (2017)~~

~~10-11-15. City Manager May Order Premises Vacated.~~

~~(a) Whenever the city manager determines that any cooperative housing unit is in violation of this chapter or of Chapter 10-2, "Property Maintenance Code," B.R.C. 1981, and has caused a summons and complaint requiring the licensee to appear in municipal court to answer the charge of violation to issue, and the summons cannot be served upon the licensee despite reasonable efforts to do so, or, having been served, the licensee has failed to appear in the municipal court to answer the charges or at any other stage in the proceedings, or, having been convicted or entered a plea of guilty or no contest, the licensee has failed to satisfy the judgment of the court or any condition of a deferred judgment, then the city manager may, after thirty days' notice and an opportunity for a hearing to the residents and the licensee, require that the premises be vacated and not be reoccupied until all of the requirements of the Property Maintenance Code and the cooperative housing code have been satisfied and a cooperative housing license is in effect. No person shall occupy any cooperative housing unit after receiving actual or constructive notice that the premises have been vacated under this section.~~

~~(b) Any notice required by this section to be given to a licensee is sufficient if sent by first class or certified mail to the address of the last known owner of the property as shown on the records of the Boulder County Assessor as of the date of mailing. Any notice to a resident required by this section is sufficient if sent by first class or certified mail to or delivered to any occupant at the address of the premises and directed to "All Residents."~~

~~(c) The remedy provided in this section is cumulative and is in addition to any other action the city manager is authorized to take.~~

~~Ordinance No. 8119 (2017)~~

~~10-11-16. Administrative Remedy.~~

~~(a) If the city manager finds that a violation of any provision of this chapter or Chapter 10-2, "Property Maintenance Code," B.R.C. 1981, exists, the manager, after notice to the operator and an opportunity for hearing under the procedures prescribed by Chapter 1-3,~~

"Quasi-Judicial Hearings," B.R.C. 1981, may take any one or more of the following actions to remedy the violation:

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

(A) For the first violation of the provision, $150;

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

(C) For the third violation of the same provision, $1,000;

(2) Revoke the cooperative housing license; and

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

(b) If notice is given to the city manager by the licensee at least forty-eight hours before the time and date set forth in the notice of hearing on any violation, other than a violation of Section 10-11-12 "Compatibility with Neighborhoods," B.R.C. 1981, that the violation has been corrected, the manager will re-inspect the cooperative housing unit. If the manager finds that the violation has been corrected, the manager may cancel the hearing.

(c) If notice is given to the city manager by the licensee at least forty-eight hours before the time and date set forth in the notice of hearing on any violation of Section 10-11-12 "Compatibility with Neighborhoods," B.R.C. 1981, that the licensee has scheduled a community mediation with concerned neighbors, the manager may continue the hearing until the manager receives a report regarding the conclusion of the mediation. If after reviewing a community mediation report, if the city manager is satisfied that the cooperative housing unit meets the requirements of Section 10-11-12 "Compatibility with Neighborhoods," B.R.C. 1981, the city manager may dismiss any pending complaint.

(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, provided however, the city manager shall not seek criminal penalties for any violation of this chapter.

(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.

Ordinance No. 8119 (2017)

10-11-17. Authority to Issue Rules.

The city manager may adopt reasonable rules to implement this chapter.

Ordinance No. 8119 (2017)

10-11-18. Reporting.

~~The city manager shall prepare an annual report to the city council regarding the implementation and enforcement of this chapter. Council will consider the impacts of this ordinance and make changes as necessary.~~

Section 64. Section 10-12-2, "Definition," B.R.C. 1981, is amended to read as follows:

Mobile home means a transportable, ~~single-family~~detached dwelling unit, suitable for year-round occupancy that contains the same water supply, waste disposal and electrical conveniences as immobile housing, that has no foundation other than wheels or removable jacks for conveyance on highways, and that may be transported to a site as one or more modules, but the term does not include "travel trailers," "campers," "camper buses," or "motor homes," or modular homes designed to be placed on a foundation.

Section 65. Section 11-1-13, "When Connections With Water Mains Are Required," B.R.C. 1981, is amended to read as follows:

11-1-13. When Connections With Water Mains Are Required.

(a) ~~(a)~~ All property located in the city or annexed to the city that is open to the public or used for commercial or industrial purposes or uses (other than ~~single-family~~detached dwelling units ~~residential~~) and that requires a potable water supply for human consumption shall be connected with the water utility of the city. The owner of the property, the owner's agent or other person having charge of such property or receiving the rent for it, or a tenant of the property shall pay all applicable fees and charges when the city manager notifies such person that connection is required. The manager shall serve such notice upon the owner of such property by registered mail to the last address of the owner on the records of the Boulder County Assessor and upon the person in possession of such property by mail to the property address. Connection to the water utility is immediately required only where there exists a city water main abutting or adjacent to any portion of the boundaries of the property upon which there is an existing structure or a proposed structure requiring the use of potable water. A private water supply may be used for irrigation on property connected to the water utility, but no person in possession of such property shall allow the water from the private supply to be used for human consumption or to be cross-connected with a line containing water from the water utility. Nothing in this subsection shall be deemed to require water connection by properties in the portion of Moore's Subdivision annexed on July 11, 1978 or specifically exempted by any written agreement with the city.

Section 66. Section 11-1-15, "Out of City Water Service," B.R.C. 1981, is amended to read as follows:

11-1-15. Out of City Water Service.

(a) Out of city water service permits are intended for properties that may be eligible for annexation in the near future but are not presently eligible. The purpose of this section is to outline the requirements precedent to the receipt of out of city utility services. A person desiring to make connection to out of city services will be required to make such land dedication and pay such fees as would be anticipated from a similarly situated property that would annex into the city.

(b) Any person outside of the city limits desiring to make a connection or repair to or disconnect from the water utility or to use water therefrom shall apply to the city manager for a revocable out of city water permit, which may be issued after approval of the city manager if the manager finds that the application meets the following conditions:

(1) The property is located within Area II of the Boulder Valley Comprehensive Plan, unless the facility to be served is a publicly owned facility that because of its nature is most appropriately located outside Area II and because of the general public interest should be served by water service;

(2) There is no main extension involved for such service beyond one hundred feet or in violation of the main extension limit, whichever is less;

(3) The city planning department has determined that the proposal does not constitute new urban development and is consistent with the comprehensive plan;

(4) The City has referred the application to the Boulder County Planning Department under the referral provisions of the comprehensive plan;

(5) The service is to be extended to a structure, which contains a legal use, that existed on the effective date of this chapter or to a platted ~~single-family~~ lot with a detached dwelling unit existing on the effective date of this chapter;

(6) The property is located below the "Blue Line;"

(7) The property owner agrees in an agreement running with the land to annex to the City as soon as the property is eligible for annexation; and

(8) The property has an existing permitted out of city sewer connection or has applied for such permit in accordance with the requirements of section 11-2-10, "Out of City Sewer Service," B.R.C. 1981, and agreed to connect to sanitary sewer when eligible.

Section 67. Section 11-2-10, "Out of City Sewer Service," B.R.C. 1981, is amended to read as follows:

11-2-10. Out of City Sewer Service.

(a) Out of city sewer service permits are intended for properties that may be eligible for annexation in the near future but are not presently eligible. The purpose of this section is to outline the requirements precedent to the receipt of out of city utility services. A person desiring to make connection to out of city services will be required to make such land dedication and pay such fees as would be anticipated from a similarly situated property that would annex into the City.

(b) Any person outside of the city limits desiring to make a connection to the wastewater utility shall apply to the city manager for a revocable out of city wastewater permit, which may be issued after approval of the city manager if the manager finds that the application meets the following conditions:

(1) The property is located within Area II of the Boulder Valley Comprehensive Plan, unless the facility to be served is a publicly owned facility that because of its nature is most appropriately located outside Area II and because of the general public interest should be served by sewer service;

(2) There is no main extension involved for such service beyond one hundred feet;

(3) The city planning department has determined that this proposal does not constitute new urban development and is consistent with the comprehensive plan;

(4) The City has referred the application to the Boulder County Planning Department under the referral provisions of the comprehensive plan;

(5) The service is to be extended to a structure, which contains a legal use, that existed on the effective date of this chapter or to a platted ~~single-family~~ lot with a detached dwelling unit existing on the effective date of this chapter;

(6) The property is located below the "Blue Line;"

(7) The property owner agrees in an agreement running with the land to annex to the City as soon as the property is eligible for annexation; and

(8) The property has an existing permitted out of city water connection or has applied for such permit in accordance with the requirements of section 11-1-15, "Out of City Water Service," B.R.C. 1981, and agreed to connect to water service when eligible.

Section 68. Section 11-5-5, "Discharges to the Stormwater Utility System," B.R.C. 1981, is amended to read as follows:

11-5-5. Discharges to the Stormwater Utility System.

(a) Illicit Discharges Prohibited: No user or other person shall discharge any illicit discharge into or upon the stormwater utility system, any public highway, street, sidewalk, alley, land, public place, stream, ditch or other watercourse or into any cesspool, storm or private sewer or natural water outlet, except as specifically provided in this chapter and in accordance with the MS4 permit.

(b) Cleaning of Hard Surfaces: The owner of any paved parking lot, street or drive shall clean the pavement as necessary to prevent the buildup of pollutants and to prevent an illicit discharge. Paved surfaces shall be cleaned by dry sweeping, wet vacuum sweeping, collection and treatment of wash water or other methods in compliance with this chapter, or other applicable federal, state and local laws.

(c) Material Storage: No person shall store materials including, without limitation, stockpiles used in construction and landscaping activities, in a manner which may cause an illicit discharge or threatened illicit discharge into the stormwater utility system or receiving water.

(d) Exemptions: The following discharges are exempt from the requirements established by this chapter:

(1) Landscape irrigation and lawn watering associated with ~~single-family~~ detached dwelling units or duplexes ~~development~~,

(2) Uncontaminated groundwater or surface water pumped from a foundation drainage or crawl space system in accordance with the regulations of the Colorado Department of Public Health and Environment,

(3) Individual residential car washing,

(4) Discharges that comply with the Colorado Water Quality Control Division's Low Risk Policy Discharge Guidance or other applicable Division policies or guidance documents including:

(A) Dechlorinated swimming pool discharges;

(B) Water line and fire hydrant flushing;

(C) Uncontaminated groundwater infiltration;

(D) Discharges from potable water sources that have not been used in any additional process, including without limitation any type of washing, heat exchange, manufacturing, or hydrostatic testing of pipelines not associated with treated water distribution systems; or

(E) Discharges where the Colorado Water Quality Control Division has stated that it will not pursue permit coverage or enforcement,

Section 69. Section 12-1-2(b)(4), "Discrimination in Housing Prohibited," B.R.C. 1981, is amended to read as follows:

12-1-2. Discrimination in Housing Prohibited.

…

(b) The provisions of subsection (a) of this section do not apply to prohibit:

(1) Any religious or denominational institution or organization that is operated, supervised or controlled by a religious or denominational organization from limiting admission or giving preference to persons of the same religion or denomination or from making such selection of buyers, lessees or tenants as will promote a bona fide religious or denominational purpose.

(2) Owner.

(A) An owner or lessee from limiting occupancy of a single dwelling unit occupied by such owner or lessee as his or her residence.

(B) An owner from limiting occupancy of rooms or dwelling units in buildings occupied by no more than two families living independently of each other if the owner actually maintains and occupies one of such rooms or dwelling units as his or her residence.

(C) An owner or lessor of a housing facility devoted entirely to housing individuals of one sex from limiting lessees or tenants to persons of that sex, provided that people shall be allowed to use a housing facility that is consistent with their gender identity. In housing facilities where undressing in the presence of others occurs, owners or lessors shall make reasonable accommodations to allow access consistent with an individual's gender identity.

(3) The transfer, sale, rental, lease or development of housing designed or intended for the use of the physically or mentally disabled, but this exclusion does not permit discrimination on the basis of race, creed, color, sexual orientation, gender identity, gender expression, genetic characteristics, marital status, religion, religious expression, ancestry or national origin.

(4) Compliance with any provisions of ~~Section 9-8-5, "Occupancy of Dwelling Units," or~~ Chapter 10-2, "Property Maintenance Code," B.R.C. 1981, concerning permitted occupancy of dwelling units.

(5) Discrimination on the basis of pregnancy, parenthood or custody of a minor child in:

(A) Any owner-occupied lot containing four or fewer dwelling units;

(B) Any residential building in which the owner or lessor publicly establishes and implements a policy of renting or selling exclusively to persons fifty-

five years of age or older, but only as long as such policy remains in effect;

(C) Any residential institution, as defined in Section 9-16-1, "General Definitions," B.R.C. 1981;

(D) Any dwelling unit rented, leased or subleased for no more than eighteen months while the owner or lessee is temporarily absent, when the owner or lessee leaves a substantial amount of personal possessions on the premises;

(E) Any residential building located on real estate whose title was, as of November 17, 1981, encumbered by a restrictive covenant limiting or prohibiting the residence of minor children on such property, but only so long as such covenant remains in effect; and

(F) Up to one-third of the buildings in a housing complex consisting of three or more buildings; for purposes of this subparagraph, housing complex means a group of buildings each containing five or more units on a contiguous parcel of land owned by the same person or persons.

(c) The provisions of subsection (a) of this section shall not be construed to require an owner or lessor of property to make any improvement to a housing facility beyond minimal building code standards applicable to the housing facility in question and approved by a state or local agency with responsibility to approve building plans and designs.

ORDINANCE 8651

AN ORDINANCE AMENDING TITLE 1, "GENERAL ADMINISTRATION," TITLE 4, "LICENSES AND PERMITS," TITLE 5, "GENERAL OFFENSES," TITLE 9, "LAND USE CODE," AND TITLE 10, "STRUCTURES," B.R.C. 1981, TO AMEND RESIDENTIAL OCCUPANCY STANDARDS TO COMPLY WITH COLORADO HOUSE BILL 24-1007, CONCERNING RESIDENTIAL OCCUPANCY LIMITS, AND SETTING FORTH RELATED DETAILS.

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

Section 1. Section 1-2-1, "Definitions," B.R.C. 1981, is amended to read as follows:

1-2-1. - Definitions.

(a) The definitions in this chapter apply throughout this code unless a term is defined differently in a specific title, chapter or section.

(b) The following words used in this code and other ordinances of the c~~C~~ity have the following meanings unless the context clearly indicates otherwise:

…

Dwelling unit, detached means a detached principal building other than a mobile home, designed for or used as a dwelling with no more than one dwelling unit within a structure.

Duplex means a structure containing only two dwelling units.

…

Multi-unit dwelling means a building used by two or more of the following groups of persons living independently of each other in separate dwelling units but not including motels, hotels, and detached dwelling units ~~and resorts~~:

…

Rooming house means an establishment where, for direct or indirect compensation, lodging, with or without kitchen facilities or meals, is offered for one month or more for three or more roomers ~~not related to the family of the heads of the household~~ living independently within rooming units. ~~not related to the family of the heads of the household.~~

…

~~Single-unit dwelling means a detached principal building other than a mobile home, designed for or used as a dwelling exclusively by one group of the following persons as an independent living unit.:~~

~~(1) The members of a family plus one or two roomers. The quarters the roomers use shall not exceed one-third of the total floor area of the dwelling unit and shall not be a separate dwelling unit;~~

~~(2) Up to three individuals in RR-1, RR-2, RE and RL zones;~~

~~(3) Up to eight persons sixty years of age or older in RR-1, RR-2, MU-2, RE and RL zones;~~

~~(4) Up to four individuals in RM, RMX, MU-1, MU-2, MU-3, RH-1, RH-2, RH-3, RH-4, RH-5, BT, BC, DT-1, DT-2, DT-3, DT-4, DT-5, IS, IG, IM, IMS, BMS and BR zones; or~~

~~(5) Two individuals and any of their children by blood, marriage, guardianship, including foster children, or adoption.~~

…

Townhouse means an attached dwelling unit located or capable of being located on its own lot and separated from adjoining dwelling units by a wall extending from the foundation through the roof which is structurally independent of the corresponding wall of the adjoining unit.

…

Section 2. Section 4-4-4, "Classification of Licenses," B.R.C. 1981, is amended to read as follows:

4-4-4. Classification of Licenses.

(a) A Class A license entitles the licensee to contract for the construction, alteration, wrecking, or repair of any type or size of building or structure permitted by the City of Boulder Building Code. The annual fee for a Class A license is ~~that~~ prescribed in Section 4-20-4, "Building Contractor License, Building Permit Fees, and Payment of Estimated Use Tax," B.R.C. 1981.

(b) A Class B license entitles the licensee to contract for the construction, alteration, wrecking, or repair of all commercial and residential buildings or structures defined as Type V, Type V-1 hour, Type IV, Type II-N, and Type III-N in the City of Boulder

Building Code.[1] The annual fee for a Class B license is that prescribed in Section 4-20-4, "Building Contractor License, Building Permit Fees, and Payment of Estimated Use Tax," B.R.C. 1981.

…

Section 3. Section 4-13-4, "Classification of Licenses," B.R.C. 1981, is amended to read as follows:

4-13-4. Classifications of Licenses.

(a) A Class A license entitles the licensee to undertake or perform any work covered by the city mechanical code. The annual fee for a Class A license is that prescribed by section 4-20-13, "Mechanical Contractor License and Mechanical Permit Fees," B.R.C. 1981.

(b) A Class B license entitles the licensee to undertake or perform work covered by the mechanical code for commercial and dwelling units except for work associated with sections 507 and 508 and the following occupancies "H" and "I" as defined in the city mechanical code. The annual fee for a Class B license is that prescribed by section 4-20-13, "Mechanical Contractor License and Mechanical Permit Fees," B.R.C. 1981.

(c) A Class C license entitles the licensee to undertake or perform work covered through the city mechanical code for one-and two-family dwellings ~~one-detached dwelling units and two-family dwellings~~duplexes. The annual fee for a Class C license is ~~that~~ prescribed by section 4-20-13, "Mechanical Contractor License and Mechanical Permit Fees," B.R.C. 1981.

…

Section 4. Section 4-20-4, "Building Contractor License, Building Permit Fees, and Payment of Estimated Use Tax," B.R.C. 1981, is amended to read as follows:

4-20-4. - Building Contractor License, Building Permit Fees, and Payment of Estimated Use Tax.

(a) An applicant for a building contractor license shall pay the following annual fee according to the type of license requested:

…

(f) Other fees are as follows:

---

[1]Chapter 10-5, "Building Code," B.R.C. 1981.

	Permit	***Fee***
(1)	Demolition Permit	
	(A) Interior/nonloadbearing	$ 24.55
	(B) All other	$173.70
(2)	Fence Permit and Retaining Wall Permit	$4.05 for each $100 (No maximum)
(3)	Temporary Event Permit Fee	$28.05
(4)	Reinspection Fee	$94 per occurrence (Payable before any further inspections can be done.)
(5)	Change of Use Fee	$81 (Can be credited to building permit fee if permit applied for and paid within ninety days.)
(6)	After Hours Inspection	$123 per hour - two-hour minimum
(7)	Plan Check Fee (due at time of permit application):	
	(A) Residential, detached ~~single family~~dwelling units in the RR-1, RR-2, RE, RL-1, RMX-1; and detached ~~single family~~dwelling units in RL-2 on lots larger than 8,000 square feet and that are not within the boundaries of a planned development, planned residential development, planned unit development, or an approved site review; or shown on Appendix H of Title 9, Land Use Code	Fifty percent of the building permit fee
	(B) All other residential, ~~single family~~detached dwelling units not covered by (A) above	Twenty-five percent of the building permit fee
	(C) Residential, ~~multi unit dwellings~~ multifamily~~family~~	Sixty-five percent of the building permit fee
	(D) Nonresidential	Sixty-five percent of the building permit fee
(8)	Energy Code Calculation Fee:	
	Heat Loss Calculation Check Fee:	
	(A) Residential	$ 83.90
	(B) Commercial	$104.05
(9)	Reinstatement of Permit	Fifty percent of Building Permit Fee (Energy Fee will not be charged if no further review is required.)

(10)	Temporary Certificate of Occupancy	$173.70
(11)	Replacement of Lost Plans/New Red-lines:	
	(A) Residential/tenant finish	$116.60 plus cost of reproduction
	(B) Commercial - New	$347.60 plus cost of reproduction
(12)	Gasoline Tank Installations	$69.54
(13)	House Moving Permit	$58.50
(14)	Grading Fees:	
	(A) Grading Plan Review Fees:	
	(i) Fifty cubic yards or less No fee	
	(ii) Fifty-one through one hundred cubic yards $18.65	
	(iii) One hundred one through one thousand cubic yards $28	
	(iv) One thousand one through ten thousand cubic yards $37.30	
	(v) Ten thousand one through one hundred thousand cubic yards - $37.30 for the first ten thousand cubic yards, plus $18.65 for each additional ten thousand yards or fraction thereof.	
	(vi) One hundred thousand one through two hundred thousand cubic yards - $205.60 for the first one hundred thousand cubic yards, plus $11.15 for each additional ten thousand cubic yards or fraction thereof.	
	(vii) Two hundred thousand one cubic yards or more - $317.45 for the first two hundred thousand cubic yards, plus $5.55 for each additional ten thousand cubic yards or fraction thereof.	
	(viii) Additional plan review required by changes, additions, or revisions to approved plans - $51.30 per hour (minimum charge—one-half hour).	
	(B) Grading Permit Fees:	
	(i) Fifty cubic yards or less $18.65	
	Fifty-one through one hundred cubic yards $28	
	(ii) One hundred one through one thousand cubic yards - $28 for the first one hundred cubic yards plus $12.60 for each additional one hundred cubic yards or fraction thereof.	
	(iii) One thousand one through ten thousand cubic yards - $145.70 for the first one thousand cubic yards, plus $11.15 for each additional one thousand cubic yards or fraction thereof.	
	(iv) Ten thousand one through one hundred thousand cubic yards - $246.50 for the first ten thousand cubic yards, plus $50.25 for each additional ten thousand cubic yards or fraction thereof.	

	(v) One hundred thousand one cubic yards or more - $700.30 for the first one hundred thousand cubic yards, plus $28 for each additional ten thousand yards or fraction thereof.
The fee for any permit issued after construction has begun shall be twice the amount of each fee listed above.	

Section 5. Section 4-20-8, "Electrical Contractor Registration and Electrical Permit Fees," B.R.C. 1981, is amended to read as follows:

4-20-8. Electrical Contractor Registration and Electrical Permit Fees.

(a) For each electrical permit, the following fees shall be paid in addition to the fees established for building permits under Section 4-20-4, "Building Contractor License, Building Permit Fees, and Payment of Estimated Use Tax," B.R.C. 1981:

(1) Permit fees.

(A) Residential (one- and two-unit dwellings, and townhouses, new construction, extensive remodeling, and additions [based on enclosed living area]):

...

(B) Residential Service Change $36.70
(C) Photovoltaic/Thermal System Permit $69.60

(2) All other fees (including, without limitation, commercial construction and multi-unit dwelling~~family~~) based on the total cost of the electrical installations, including labor and electrical materials and items except as provided in Paragraphs (a)(3) and (a)(4) of this section:

…

Section 6. Section 4-20-43, "Development Application Fees," B.R.C. 1981, is amended to read as follows:

4-20-43. Development Application Fees.

…

(b) Land use regulation fees:

(1) Applicant for a blue line amendment shall pay $524.
(2) An applicant for zoning of land to be annexed shall pay the following fees:

Feasibility study

Annexation feasibility study $2,100

(Will apply as credit to initial annexation application fee if submitted within the same calendar year.)

Simple ~~Single Family~~ ~~Single family~~ Residential Detached Dwelling Unit

Initial application $5,000

Reapplication for same type of revision on same property within six months (if initial application is withdrawn or denied) $2,500

…

Section 7. Section 4-20-44, "Floodplain Development Permits and Flood Control Variance Fees," B.R.C. 1981, is amended to read as follows:

4-20-44. Floodplain Development Permits and Flood Control Variance Fees.

(a) If the floodplain development permit is for a development not located within the conveyance zone:

…

(4) An applicant for a floodplain development permit for work on an existing residential structure exceeding the threshold for "substantial damage," "substantial improvement" or "substantial modification" as defined in Section 9-16-1, "General Definitions," B.R.C. 1981, or any new ~~single family detached residential, new commercial, or mixed use, or attached residential structure~~residential, commercial, or mixed-use structure elevated to flood protection elevation shall pay $700.

…

Section 8. Section 4-20-69, "Cooperative Housing License Fee," B.R.C. 1981, is repealed and reserved:

4-20-69. ~~Cooperative Housing License Fee.~~ Reserved.

~~The following fees shall be paid before the city manager issues, renews or recertifies a cooperative housing license or renew a rental license:~~

~~(a) $645 per license or renewal.~~

~~(b) To cover the cost of investigative inspections, the city manager will assess to licensees a $250 fee per inspection, where the city manager has performed an investigative inspection to ascertain compliance with or violations of Chapter 10-11 "Cooperative Housing," B.R.C. 1981.~~

Section 9. Section 4-22-6, "Conveyances to Which Chapter Not Applicable," B.R.C. 1981, is amended to read as follows:

4-22-6. Conveyances to Which Chapter Not Applicable.

Nothing in this chapter applies to the installation or operation of an elevator, dumbwaiter, materials lift, escalator or moving walk in a private residence. For purposes of this chapter, the term *private residence* means a dwelling unit ~~which is occupied only by the members of a single family.~~ regulated under the Residential Code of the City of Boulder. ~~which is occupied only by the members of a single family.~~ [39]

Section 10. Section 4-23-2, "Permit Issuance," B.R.C. 1981, is amended to read as follows:

4-23-2. Permit Issuance.

(a) Upon designation of a neighborhood permit parking zone pursuant to Section 2-2-15, "Neighborhood Permit Parking Zones," B.R.C. 1981, the city manager shall issue parking permits for vehicles owned by or in the custody of and regularly used by residents of such zone, by persons employed by a business located within such zone, and, if provided in the zone, by individual nonresidents upon receipt of a completed application therefor and payment of the fees prescribed in Section 4-20-49, "Neighborhood Parking Permit Fee," B.R.C. 1981.

…

(c) Resident Permits. No more than two resident permits shall be in effect at any time for any person. No person shall be deemed a resident of more than one zone, and no more than one permit may be issued for any one vehicle even if persons residing in different zones share ownership or use. ~~Provided, however, that no more than a total of three resident permits may be issued for any dwelling unit housing a group of persons or organization licensed pursuant to Section 10-11-3, "Cooperative Housing Licenses," B.R.C. 1981.~~

…

Section11. Section 4-23-3, "Guest Permits," B.R.C. 1981, is amended to read as follows:

4-23-3. Guest Permits.

Residents of a zone may obtain two two-week permits per year at no cost for use by houseguests of the resident. The permit shall be indelibly marked in the space provided thereon with, or for digital permits shall indicate, the date of its first use. The permit shall thereafter be valid only for the succeeding thirteen consecutive days. The manager may by regulation define the circumstances under which additional guest permits may be issued in cases of reasonable need consistent with residential use of the dwelling. ~~Provided, however, that no more than a total of six two-week guest permits per year may be issued for any dwelling unit licensed pursuant to Section 10-11-3, "Cooperative Housing Licenses," B.R.C. 1981.~~Provided, however, that no more than a total of six two-week guest permits per year may be issued for any dwelling unit licensed pursuant to Section 10-11-3, "Cooperative Housing Licenses," B.R.C. 1981.

Section 12. Section 6-1-12, "Damaging Prairie Dog Burrows Prohibited," B.R.C. 1981, is amended to read as follows:

6-1-12. Damaging Prairie Dog Burrows Prohibited.

(a) Except as authorized by other provisions of this chapter, no person shall damage any prairie dog burrow.

(b) It shall be an affirmative defense to a violation of this section that:

…

(6) The burrow was on the property of a ~~single-family residence~~detached dwelling unit in which the person who destroyed the burrow, or authorized its destruction, was residing;

…

Section 13. Section 6-1-36, "Procedures for Obtaining Prairie Dog Lethal Control Permits," B.R.C. 1981, is amended to read as follows:

6-1-36. Procedures for Obtaining Prairie Dog Lethal Control Permits.

(a) Except as otherwise provided in this chapter, no person shall utilize lethal control measures for prairie dogs without first having obtained a lethal control permit from the city manager.

…

(h) Owners or occupants of residential lots containing a detached dwelling unit ~~single residence~~ may, at any time, obtain a lethal control permit to exterminate prairie dogs on their property. No fee shall be charged for such a lethal control permit and no waiting period longer than that period of time reasonably required to process an application shall be required.

…

(3) Lots containing multi-~~family~~ unit residential structures shall not qualify for treatment under this subsection.

…

Section 14. Section 6-3-3, "Accumulation of Trash, Recyclables, and Compostables Prohibited," B.R.C. 1981, is amended to read as follows:

6-3-3. Accumulation of Trash, Recyclables, and Compostables Prohibited.

(a) No owner of any vacant land or property; occupant, owner, or manager of any ~~single-family~~detached dwelling unit or similar property; owner, manager, or operator of any mult~~iple family~~ -unit dwelling, private club, or similar property; or owner, operator, manager, or employee of any commercial or industrial establishment or similar property shall fail to:

…

Section 15. Section 6-3-4, "Containers Required," B.R.C. 1981, is amended to read as follows:

6-3-4. Containers Required.

No owner or occupant of any ~~single-family~~detached dwelling unit; owner or manager of any mult~~iple family~~ -unit dwelling or private club; or owner, operator, or manager of any business; or any similar property shall fail to provide at all times one or more trash containers on such property. Such containers shall be of a size sufficient to accommodate the regular accumulation of trash from the property.

Section 16. Section 6-3-12, "Bear-Resistant Containers Required," B.R.C. 1981, is amended to read as follows:

6-3-12. Bear-Resistant Containers Required.

(a) No private owner, agent appointed pursuant to Section 10-3-14, "Local Agent Required," B.R.C. 1981, or manager of any property, lessee leasing the entire premises, or adult occupant of a ~~single-family~~detached dwelling unit, a duplex, a triplex, or a fourplex shall fail to keep all refuse attractants in bear resistant enclosures, in bear resistant containers, bear resistant dumpsters or securely stored within a house, garage, shed or other structure at least as secure as a bear resistant enclosure at all times, except when being transported from a house, garage or bear resistant enclosure for pickup. Refuse attractants transported for pickup not in a bear resistant container shall be attended, by a person remaining within 15 feet of the container at all times. It is not a defense to a violation of this section that a container or enclosure was damaged and the owner had not received the notice under subsection (d) below.

…

(d) No private owner, agent appointed pursuant to Section 10-3-14, "Local Agent Required," B.R.C. 1981, or manager of any property, lessee leasing the entire premises, or adult occupant of a ~~single-family~~detached dwelling unit, a duplex, a triplex, or a fourplex shall fail to repair a damaged container or enclosure within seventy-two hours after written notification by any city official, or such other time designated in the notice by the city official.

(e) If the city manager finds a violation of any provision of this section, the manager, after notice and an opportunity for hearing under the procedures prescribed by Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, may impose a civil penalty according to the following schedule:

(1) For the first violation of the provision, $100.00;
(2) For the second violation of the same provision, $250.00;
(3) For the third violation of the same provision, $500.00; and
(4) The hearing officer may adjust the penalty, based on evidence presented at a hearing.

(f) The city manager's authority under this section is in addition to any other authority the manager has to 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 manager shall not preclude resorting to any other remedy as well.

(g) 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.

(h) Notice under this subsection is sufficient if hand delivered, emailed, mailed, or telephoned to such person, or by posting on the premises.

Section 17. Section 6-4-9, "Entryway," B.R.C. 1981, is amended to read as follows:

6-4-9. Entryway.

(a) No person shall smoke within any entryway of a building, enclosed area, or common entrance to a ~~multifamily~~ multi-unit dwelling, except a ~~single-family~~detached dwelling unit.

…

Section 18. Section 6-10-11, "Pre-Application Notification of Airborne Application," B.R.C. 1981, is amended to read as follows:

6-10-11. Pre-Application Notification of Airborne Application.

(a) Prior to airborne application of any pesticide, no contracting party or other user of pesticides, shall fail to give notice to all occupants of all adjacent properties. For purposes of this section, properties located diagonally from the affected property and touching only on a property corner or other point shall be considered to be adjacent, and rights-of-way shall be disregarded in such determinations.

…

(g) If a commercial property or an attached (i.e., multi-~~family~~unit) residential dwelling is located adjacent to property on which an airborne application of any pesticide is to occur as set forth above, no contracting party or other user of pesticides shall fail to make a reasonable attempt to notify the owner or manager of the property at least forty-eight hours prior to the pesticide application. Upon receipt of such notice, such owner or manager shall not fail to post in a prominent place the information that the adjacent property will be treated.

Section 19. Section 6-12-2, "Definitions," B.R.C. 1981, is amended to read as follows:

~~*Multifamily*~~ *Multi-unit* customer means the ~~occupants~~ residents, taken together, of a residential building or set of residential buildings that uses a collective, common system for the collection of trash generated by the ~~occupants~~ residents.

Section 20. Section 6-12-5, "Containers for Recycling or Composting Collection," B.R.C. 1981, is amended to read as follows:

6-12-5. Containers for Recycling or Composting Collection.

(a) Haulers providing trash collection service to multi-unit ~~family~~ customers through centralized collection areas shall provide containers for recyclable materials at no additional charge. Containers shall be of a sufficient size to accommodate the regular accumulation of recyclables from that customer, but, at a minimum, such containers shall be of a volume equal to one-half of the volume of the trash collection service. If the city manager requires the collection of compostables, haulers shall provide containers for that service of a sufficient size to accommodate the regular accumulation of compostables from that customer.

…

Section 21. Section 6-12-6, "Disposition of Recyclable or Compostable Materials," B.R.C. 1981, is amended to read as follows:

6-12-6. Disposition of Recyclable or Compostable Materials.

(a) No person other than the person placing the recyclables or compostables for collection or that person's designated hauler shall take physical possession of any recyclables or compostables separated from trash, set out in the vicinity of the curb or alleys, and plainly marked for recyclables or compostables collection.

(b) Each property owner, property manager, residential customer, commercial customer, or multi-unit ~~family~~ customer shall relinquish recyclable materials to a hauler only on the condition that the hauler deliver the recyclable materials only to a recyclables processing center as set forth in subparagraph (c) below.

…

Section 22. Section 7-6-14, "Unauthorized Parking Prohibited," B.R.C. 1981, is amended to read as follows:

7-6-14. Unauthorized Parking Prohibited.

(a) No vehicle shall be parked upon any public or private property without the express or implied consent of the owner, lessee or occupant of the property or for a time period in excess of or in a manner other than that for which consent was given by such person.

(b) For the purposes of this section, there is an implied consent to park in areas set aside for parking on any private or public property except on property used as a ~~single-family residence~~detached dwelling unit, but such implied consent is deemed revoked with respect to any person who has parked a vehicle or has allowed a vehicle to remain parked in disregard of or contrary to the direction or intended function of any of the following:

…

Section 23. Section 7-6-24, "All-Night Parking of Commercial Vehicle, Camper or Motor Home, or Trailer Prohibited," B.R.C. 1981, is amended to read as follows:

7-6-24. All-Night Parking of Commercial Vehicle, Camper or Motor Home, or Trailer Prohibited.

(a) No commercial vehicle shall be parked on any street in any district of the city zoned RR-1, RR-2, RE, RL-1, RL-2, RM-1, RM-2, RM-3, RMX-1, RMX-2, RH-1, RH-2, RH-3, RH-4, RH-5, RH-6, RH-7, MH, P, or A for more than thirty minutes between 8 p.m. and 7 a.m. The penalty for a first violation of this section is $40. The penalty for a second violation of this section by the same vehicle or the same registered owner of a vehicle is $50. The penalty for a third and any subsequent violation of this section by the same vehicle or the same registered owner of a vehicle is $60.

(b) No camper, motor home, or trailer shall be parked on any street except as follows:

(1) When located directly on a street frontage of the ~~single-family~~detached dwelling unit or multi-~~family~~ unit dwelling of the vehicle's registered owner for a consecutive period of forty-eight hours or less; or

…

Section 24. Section 7-7-5, "Private Towing and Impounding of Vehicle Parked Without Authorization on Private Property," B.R.C. 1981, is amended to read as follows:

7-7-5. Private Towing and Impounding of Vehicle Parked Without Authorization on Private Property.

(a) The owner or lessee of real property or an agent authorized by the owner or lessee may cause any motor vehicle, parked on such property without the permission of the owner, lessee or occupant of the property, to be removed or impounded by a towing carrier, but, except on property used as a ~~single-family residence~~detached dwelling unit, only if any applicable requirements of Subsection 7-6-14(b), B.R.C. 1981, and subsection (b) of this section have been met. It is not necessary that a citation be issued for violation of Section 7-6-14, "Unauthorized Parking Prohibited," B.R.C. 1981, for a vehicle to be removed or impounded pursuant to this section.

(b) Except on property used as a ~~single-family residence~~detached dwelling unit, the owner, lessee or occupant of real property or an agent thereof, prior to causing the removal and impoundment of a motor vehicle from any area set aside for motor vehicle parking on such person's property, shall:

…

Section 25. Section 8-2-13, “Duty to Keep Sidewalks Clear of Snow,” B.R.C. 1981, is amended to read as follows:

8-2-13. Duty to Keep Sidewalks Clear of Snow.

(a) Removal of Snow, Ice, and Sleet from Sidewalks Required. No private owner, agent appointed pursuant to Section 10-3-14, "Local Agent Required," B.R.C. 1981, or manager of any property, lessee leasing the entire premises, or adult occupant of a ~~single-family~~detached dwelling unit, a duplex, a triplex, or a fourplex shall fail to keep all public sidewalks and walkways abutting the premises such person owns, leases, or occupies clear of snow, ice, and sleet, as provided in this section. Such persons are jointly and severally liable for such responsibility, criminally and administratively. Such persons shall remove any accumulation after any snowfall or snowdrift as promptly as reasonably possible and no later than twenty-four hours after the snowfall or the formation of the snowdrift. Such persons shall remove the snow, ice, or sleet from the full width of all sidewalks and walkways, except those with a width exceeding five feet, which must be cleared to a width of at least five feet.

…

(1) The city manager will notify the owner, agent appointed pursuant to Section 10-3-14, "Local Agent Required," B.R.C. 1981, or manager of any property, the lessee leasing the entire premises or any adult occupant of a ~~single-family~~detached dwelling unit, a duplex, a triplex, or a fourplex, that such person must remove the snow within the earlier of twenty-four hours or 12 noon of the day following the notice.

Section 26. Section 8-9-2, “Definitions,” B.R.C. 1981, is amended to read as follows:

For purposes of this chapter and the related fees in Chapter 4-20, "Fees," B.R.C. 1981, the following words have the following meanings, unless the context clearly indicates otherwise:

…

#

~~*Multifamily residential* means all other residential not included in the definition of single family residential as defined in this section.~~

…

~~*Single family residential* means a single family detached dwelling unit, single family attached dwelling unit that is townhouse or a duplex, or mobile home.~~

…

Section 27. Section 9-2-3, "Variances and Interpretations," B.R.C. 1981, is amended to read as follows:

9-2-3. Variances and Interpretations.

(a) Purpose: This section identifies those standards that can be varied by either the city manager or the Board of Zoning Adjustment (BOZA). Some standards can be varied by the city manager through an administrative Review process, others by BOZA by another level of administrative Review. The city manager may defer any administrative decision pursuant to this section to BOZA. This section also identifies which city manager interpretations of this title may be appealed to BOZA and establishes a process for such appeals.

…

(c) Administrative Variances: The city manager may grant a variance from:

…

(3) The minimum requirements of Section 9-7-11, "Maximum Building Coverage," and Section 9-8-2, "Floor Area Ratio Requirements," to existing ~~single-family~~detached dwelling units, by up to two hundred square feet. The purpose of this administrative variance is to permit minor modifications to ~~single-family~~detached dwelling units that will allow residents or a family member of a head of household with existing or anticipated impairments that restricts their ability to perform a major life activity to be in the home. This variance may be granted if the city manager finds that:

(A) The request meets the requirements of Subparagraphs (h)(5)(A) and (B) of this section; and

(B) The improvements are necessary to remedy any impairment, or anticipated impairment, that would prohibit or significantly restrict a resident's or a family member of a head of household's ability to perform a major life activity as compared to the ability of the average person in the general population to perform the same activity.

(4) The height of the plane above a side lot line in bulk plane requirements of Section 9-7-9, "Side Yard Bulk Plane," B.R.C. 1981, and the side yard wall articulation standards of Section 9-7-10, "Side Yard Wall Articulation Standards," B.R.C. 1981, may vary by up to twenty percent and the building coverage requirements

of Section 9-7-11, "Maximum Building Coverage," or the floor area ratio requirements of Section 9-8-2, "Floor Area Ratio Requirements," by up to two hundred square feet for existing ~~single-family~~detached dwelling units if the manager finds that the application satisfies all of the requirements in Subsection (h) of this section.

…

Section 28. Section 9-3-11, "Medium Density Overlay Zone," B.R.C. 1981, is amended to read as follows:

9-3-11. Medium Density Overlay Zone.

(a) Purpose and Scope: Medium density residential areas adjacent to the downtown central business district originally developed with a ~~predominantly single-family~~ character predominantly composed of detached dwelling units and are now redeveloping with higher densities. Development and redevelopment in certain RM-2 and RM-3 zoning districts has been very disruptive of the existing residential character of those areas, has failed to preserve certain historic structures, has led to many inappropriate structures being erected and thus has negatively affected the value of adjoining properties. The medium density overlay zone map which designates those portions of the medium density areas to which this section applies is set forth as ~~appendix~~ Appendix D, "Medium Density Overlay Zone," of this title.

(b) Additional Regulations: The following additional regulations shall apply in the medium density residential overlay zone:

(1) No person shall construct a second detached dwelling on a lot as set forth in Section 9-7-12, "Two Detached Dwellings on a Single Lot," B.R.C. 1981.

(2) No person shall create additional multi~~ple~~ dwelling units except that one additional dwelling unit per lot may be created by internal conversions of existing principal structures that are not enlarged in size subsequent to September 2, 1993, and provided that such conversions do not involve exterior modifications other than for access, including, without limitation, doors, windows and stairways.

Section 29. Section 9-3-12, "Opportunity Zone Overlay," B.R.C. 1981, is amended to read as follows:

9-3-12. Opportunity Zone Overlay.

(a) Legislative Intent: The purpose of this section is to enact an overlay zone for Census Tract 122.03, described in Appendix O, "Census Tract 122.03," and associated standards in order to protect the public health, safety and welfare:

(1) Federal Census Tract 122.03 was certified by the federal government as an opportunity zone;

(2) Investors in the opportunity zone, through opportunity zone funds, will receive favorable tax relief as an incentive to invest in business and real estate within Census Tract 122.03;

(3) It is anticipated that opportunity zone funds may lead to accelerated investment in Census Tract 122.03;

(4) The Boulder Valley Comprehensive Plan provides that the city will work with neighborhoods to protect and enhance neighborhood character and livability and preserve the relative affordability of existing housing stock;

(5) The Boulder Valley Comprehensive Plan describes that the city will make special efforts to preserve and rehabilitate existing housing servicing low-, moderate-, and middle-income households; and

(6) It is the intent of this section to prevent accelerated demolition of the existing relatively affordable multi~~-family~~ unit dwelling housing stock in Census Tract 122.03 to protect existing neighborhood character in this area and preserve the existing housing stock and its relative affordability.

…

(e) Unsafe Buildings: As an exception to the standards of this section, a building or part thereof may be demolished if the city manager has declared the building or relevant part thereof to be unsafe or dangerous to the general public, ~~occupants~~residents, or property or otherwise unfit for human occupancy, and such that it is unreasonable to repair the structure or relevant part thereof. In making such determination, the city manager will consider the deficiencies of the structure or part thereof, including without limitation, damage, decay, faulty construction, potential for collapse, disrepair or the presence of health and safety concerns such as unsanitary conditions, infestation of rats or vermin, the presence of filth and contamination, or other conditions that constitute a hazard to ~~occupants~~ residents or the public.

(f) Maintenance: The city council intends to preserve from deliberate or inadvertent neglect attached dwelling units in Census Tract 122.03. No owner, lessee or occupant of an attached dwelling unit shall fail to comply with the ordinances of the city regulating property maintenance, including without limitation Chapter 10-2, "Property Maintenance Code," B.R.C. 1981.

Section 30. Section 9-5-2, “Zoning Districts,” B.R.C. 1981, is amended to read as follows:

9-5-2. Zoning Districts.

(a) Classification: Zoning districts are classified according to the following classifications based on the predominant character of development and current or intended use in an area of the community:

(1) R: Residential;
(2) M: Mixed Use, a mix of residential and business;
(3) B: Business;
(4) DT: Downtown business zones;
(5) I: Industrial;
(6) P: Public;
(7) A: Agricultural.

…

(c) Zoning District Purposes:

(1) Residential Districts and Complementary Uses:

(A) Residential - Rural 1, Residential - Rural 2, Residential - Estate, and Residential - Low 1: Primarily ~~single-family~~ detached dwelling units with some duplexes and attached dwelling units at low to very low residential densities.

…

(D) Residential - Mixed 1: Mixed density residential areas with a variety of ~~single-family,~~ detached dwelling units, duplexes, and multi-~~family~~ unit~~s~~ dwellings that will be maintained; and where existing structures may be renovated or rehabilitated.

…

(H) Residential - High 6: High density residential urban areas that are ~~predominately~~ predominantly townhouses in close proximity to either a primary destination or a transit center and where complementary uses may be allowed.

…

Section 31. Section 9-6-3, "Specific Use Standards - Residential Uses," B.R.C. 1981, is amended to read as follows:

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

(a) Residential Uses:

(1) This Subsection (a) sets forth standards for uses in the residential use classification that are subject to specific use standards pursuant to Table 6-1, Use Table.

(2) Residential Uses in the IG and IM Zoning Districts: The following standards apply in the IG and IM zoning districts to residential uses that may be approved pursuant to a use review:

…

(j) **Congregate Care Facility, Custodial Care Facility, and Residential Care Facility:**

(1) Applicability: This subsection (j) sets forth standards for congregate care facilities, custodial care facilities, and residential care facilities that are subject to specific use standards pursuant to Table 6-1, Use Table.

(2) Intensity: The number of dwelling units or sleeping rooms or accommodations shall be consistent with Section 9-8-6, "Density Equivalencies for Group Residences and Hostels," B.R.C. 1981.

~~Standards: The following standards apply to any such facility that may be approved as a conditional use or pursuant to a use review:~~

~~(A) For purposes of density limits in Section 9-8-1, "Schedule of Intensity Standards," B.R.C. 1981, and occupancy limits, six occupants, including staff, in any custodial, residential, or congregate care facility constitute one dwelling unit, but the city manager may increase the occupancy of a residential care facility to eight occupants, including staff, if:~~

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

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

…

(l) **Group Home Facility:**

(1) The following standards apply to any group home facility that may be approved as a conditional use or pursuant to a use review:

(A) General Standards: Any group home facility approved as a conditional use or pursuant to a use review shall meet the following standards:

(i) Intensity: The number of dwelling units or sleeping rooms or accommodations shall be consistent with Section 9-8-6, "Density Equivalencies for Group Residences and Hostel**s**," B.R.C. 1981.

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

~~a. The floor area ratio for the facility complies with standards of the Colorado State Departments of Public Health and Environment and Human Services and Chapter 10-2, "Property Maintenance Code" B.R.C. 1981; and~~

~~b. Off-street parking is appropriate to the use and needs of the facility and the number of vehicles used by its occupants, regardless of whether it complies with other off-street parking requirements of this chapter.~~

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

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

…

(m) **Transitional Housing:**

(1) The following standards apply to any transitional housing facility that may be approved as a conditional use or pursuant to a use review:

(A) General Standards: Any transitional housing approved as a conditional use or pursuant to a use review shall meet the following standards:

(i) Density: The maximum number of dwelling units with transitional housing facility shall be the same as is permitted within the underlying zoning district, except that for any zoning district that is classified as an industrial zoning district pursuant to Section 9-5-2, "Zoning Districts," B.R.C. 1981, the number of dwelling units permitted shall not exceed one dwelling unit for each one thousand six hundred square feet of lot area on the site.

~~(ii) Occupancy: No person shall occupy such dwelling unit within a transitional housing facility except in accordance with the occupancy standards set forth in Section 9-8-5, "Occupancy of Dwelling Units," B.R.C. 1981, for dwelling units.~~

(ii~~i~~) Parking: The facility shall provide one off-street parking space for each dwelling unit on the site. The approving authority may grant a parking deferral of up to the higher of fifty percent of the required parking or what otherwise may be deferred in the zoning district if the applicant can demonstrate that the criteria set forth in Subsection 9-9-6(e), B.R.C. 1981, have been met.

…

Section 32. Section 9-6-5, "Specific Use Standards- Commercial Uses," B.R.C. 1981, is amended to read as follows:

9-6-5. Specific Use Standards - Commercial Uses.

FOOD, BEVERAGE, AND LODGING

(a) **Bed and Breakfast:**

(1) The following standards apply to bed and breakfast uses that may be approved as a conditional use or pursuant to a use review:

…

(C) No structure contains more than twelve guest rooms. The number of guest rooms shall not exceed the occupancy limitations set forth in Section 9-8-6, "Density ~~Occupancy~~ Equivalencies for Group Residences and Hostels," B.R.C. 1981.

…

Section 33. Section 9-7-2, "Setback Standards," B.R.C. 1981, is amended to read as follows:

9-7-2. Setback Standards.

(a) Front Yard Setback Reductions: The front yard setback required in Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, may be reduced for a principal structure on any lot if more than fifty percent of the principal buildings on the same block face or street face do not meet the required front yard setback. The setback for the adjacent buildings and other buildings on the block face shall be measured from the property line to the bulk of the building, excluding, without limitation, any unenclosed porches, decks, patios or steps. The bulk of the building setback shall not be less than the average bulk of the building setback for the principal buildings on the two adjacent lots. Where there is only one adjacent lot, the front yard setback reduction shall be based on the average of the principal building setbacks on the two closest lots on the same block face. (See Figure 7-1 of this section.)

…

(b) Side Yard Setback Standards:

…

(6) Existing Nonstandard Side Yard Setbacks for Existing ~~Single-Family~~ Detached Dwelling Units: A second story addition that does not comply with the minimum interior or combined side yard setbacks may be added to an existing ~~single family~~ detached dwelling unit subject to the following:

(A) The interior side yard setback for the existing ~~single family~~ detached dwelling unit complied with the setback requirements in existence at the time of initial construction and was not created by a variance or other procedure;

(B) The resulting interior side yard setback will not be less than five feet and combined side yard setbacks will not be less than ten feet;

(C) That portion of the building in the side yard setback shall vertically align with the existing ~~first story~~first-story wall.

Section 34. Section 9-7-8, "Accessory Buildings in Residential Zones," B.R.C. 1981, is amended to read as follows:

9-7-8. Accessory Buildings in Residential Zones.

(a) Maximum Building Coverage: In an RR, RE, RL or RMX-1 residential zoning district, unless the property has been designated as an individual landmark or is located within a historic district under Chapter 9-11, "Historic Preservation," B.R.C. 1981, the total cumulative building coverage of accessory buildings or structures between the principal building rear yard setback and the rear yard property line shall not exceed five hundred square feet. For a property that has been designated as an individual landmark or is located within a historic district under Chapter 9-11, "Historic Preservation," B.R.C. 1981, such total cumulative building coverage may be increased to permit the addition of one new accessory building or structure of up to five hundred square feet of coverage if such property has existing structures within the principal building rear yard setback area. There shall be no limitation on building coverage for accessory buildings or structures located entirely within the principal building envelope except as set forth in the definition of "accessory building or structure," in Chapter 9-16, "Definitions," B.R.C. 1981.

(b) Connections Between a Dwelling Unit and an Accessory Building Located Within the Principal Building Envelope: In a residential zoning district, a ~~single-family~~ detached dwelling unit may be connected to an accessory building by a breezeway that is built in compliance with the principal building setback standards set forth in this chapter, or the principal building setback standards in place at the time of its construction, if the breezeway meets the following standards:

…

(c) Breezeway Connections Between Accessory and Principal Buildings: In a residential zoning district, a ~~single-family~~ detached dwelling unit may be connected to an accessory building which is located partially or entirely within principal building rear yard setback by a breezeway if the breezeway meets the following standards:

…

(5) The sides of the breezeway above grade shall remain completely open except for structural support columns and the walls of the accessory building and the ~~single-family~~ detached dwelling unit to which it is attached.

…

Section 35. Section 9-7-9, “Side Yard Bulk Plane,” B.R.C. 1981, is amended to read as follows:

9-7-9. Side Yard Bulk Plane.

(a) Purpose: Buildings with tall side walls may impact privacy, views or visual access to the sky on neighboring properties. The purpose of this side yard bulk plane standard is to

ensure that buildings step down towards neighboring properties in order to enhance privacy, preserve some views and visual access to the sky for lots or parcels that are adjacent to new development.

(b) Scope: All construction related to principal and accessory buildings shall comply with the bulk plane requirements of this section. This section applies to all construction related to buildings, including new construction, building addition or modification of existing buildings as follows:

(1) All residential principal and accessory buildings in the RR-1, RR-2, RE and RL-1 zoning districts; and

(2) All principal and accessory buildings that are used as ~~a~~ detached ~~single family land used~~dwelling units in the RMX-1 zoning district.

…

Section 36. Section 9-7-10, "Side Yard Wall Articulation," B.R.C. 1981, is amended to read as follows:

9-7-10. Side Yard Wall Articulation.

(a) Purpose: Buildings with tall side walls may impact privacy, views or visual access to the sky on neighboring properties. The purpose of the side yard wall articulation standard is to reduce the perceived mass of a building by dividing it into smaller components, or to step down the wall height in order to enhance privacy, preserve views and visual access to the sky for lots or parcels that are adjacent to new development.

(b) Scope: All construction related to principal and accessory buildings shall comply with the side yard wall length articulation requirements of this section. This section applies to all construction related to buildings, including new construction, expansion or modification of existing buildings as follows:

(1) All residential buildings in the RR-1, RR-2, RE and RL-1 zoning districts, including lots located in planned developments, planned residential developments and planned unit developments.

(2) All buildings that are used ~~as a~~ detached ~~single family land used~~dwelling units in the RMX-1 zoning district, including lots located in planned developments, planned residential developments and planned unit developments.

…

Section 37. Section 9-7-11, "Maximum Building Coverage," B.R.C. 1981, is amended to read as follows:

9-7-11. Maximum Building Coverage.

(a) Purpose: The purposes of the building coverage standards are to establish the maximum percentage of lot surface that may be covered by principal and accessory buildings to preserve open space on the lot, and to preserve some views and visual access to the sky and enhance privacy for residences that are adjacent to new development.

(b) Scope: All construction related to principal and accessory buildings shall comply with the building coverage requirements of this section. This section applies to all construction related to residential buildings, including new construction, building additions or modification of existing buildings as follows:

(1) All residential and principal and accessory buildings in the RR-1, RR-2, RE and RL-1 zoning districts, including lots located in planned developments, planned residential developments and planned unit developments.

(2) All principal and accessory buildings that are used as ~~a~~ detached ~~single family land use~~dwelling units in the RMX-1 zoning district, including lots located in planned developments, planned residential developments and planned unit developments.

…

Section 38. Section 9-8-1, "Schedule of Intensity Standards," B.R.C. 1981, is amended to read as follows:

9-8-1. - Schedule of Intensity Standards.

The purpose of this chapter is to indicate the requirements for the allowed intensity of all types of development, including maximum density for residential developments based on allowed number of units ~~and occupancy~~. All primary and accessory structures are subject to the standards set forth in Table 8-1 of this section except that developments within an area designated in Appendix L, "Form-Based Code Areas," and subject to the standards or Chapter 9-14, "Form-Based Code," are exempt from Table 8-1 and Sections 9-8-1 through 9-8-4, B.R.C. 1981. Developments within an area designated in Appendix L, "Form-Based Code Areas," and subject to the standards or Chapter 9-14, "Form-Based Code ," are subject to the standards of Sections 9-8-5, "Occupancy of Dwelling Units," 9-8-6, "Density ~~Occupancy~~ Equivalencies for Group Residences and Hostels," and 9-8-7, "Density ~~and Occupancy~~ of Efficiency Living Units," B.R.C. 1981. No person shall use any land within the city authorized by Chapter 9-6, "Use Standards," B.R.C. 1981, except according to the following requirements unless modified through a use review under Section 9-2-15, "Use Review," B.R.C. 1981, or a site review under Section 9-2-14, "Site Review," B.R.C. 1981, or granted a variance under Section 9-2-3, "Variances and Interpretations," B.R.C. 1981, or approved through a form-based code review under Section 9-2-16, "Form-Based Code Review," B.R.C. 1981.

…

Section 39. Section 9-8-2, "Floor Area Ratio Requirements," B.R.C. 1981, is amended to read as follows:

9-8-2. Floor Area Ratio Requirements.

(a) Purpose: The purpose of the floor area ratio requirements is to limit the impacts of the use that result from increased building size.

…

(d) District-Specific Standards:

(1) Maximum Floor Area in the RR-1, RR-2, RE, RL-1, RL-2, and RMX-1 Zoning Districts:

(A) Purpose: The purpose of a floor area ratio standard is to address the proportionality of building size to lot size and allow variation in building form within the established building envelope.

(B) Scope: All construction related to principal and accessory buildings shall comply with the floor area ratio requirements of this section. This section applies to all construction related to residential buildings, including new construction, building additions, or modification of existing buildings as follows:

(i) All ~~residential and~~ principal and accessory buildings in the RR-1, RR-2, RE, and RL-1 zoning districts, including lots located in planned developments, planned residential developments, and planned unit developments.

(ii) All principal and accessory buildings ~~that are used as a detached single-family land use~~ in the RMX-1 zoning district, including lots located in planned developments, planned residential developments, and planned unit developments.

(iii) In the RL-2 zoning district, the floor area ratio requirements shall apply to lots that are 8,000 square feet or larger, used for detached ~~single-family land uses~~dwelling units that are not within the boundaries of a planned development, planned residential development, planned unit development, or an approved site review.

(iv) In the RL-2 zoning district, the floor area ratio requirements shall apply to all lots and parcels used for detached ~~single family land~~

~~uses~~dwelling units that are within the boundaries of a planned development, planned residential development, and planned unit development that are shown on Appendix H to this title.

(v) For projects subject to site review in Section 9-2-14, "Site Review," B.R.C. 1981, the floor area shall be calculated based upon each lot or parcel.

…

Section 40. Section 9-8-5, "Occupancy of Dwelling Units," B.R.C. 1981, is amended to read as follows:

9-8-5. Occupancy of Dwelling Units.

(a) General Occupancy Restrictions: No person shall occupy a dwelling unit in violation of the occupancy limitations of Chapter 10-2, "Property Maintenance Code," B.R.C.1981. A violation of this section shall be considered a violation of Title 10.

(b) Prior Approvals: Any requirement under a city approval granted under this title that restricts occupancy based on familial relationship, such as number of unrelated persons, or restricts occupancy beyond the occupancy permitted by Chapter 10-2, "Property Maintenance Code," B.R.C. 1981, is void and shall not be enforced. Notwithstanding the foregoing, this subsection does not apply to any residential occupancy limit based on the standards in Chapter 9-13, "Inclusionary Housing," B.R.C. 1981, or based on any local, state, federal or political subdivision affordable housing program guidelines. ~~Subject to the provisions of Chapter 10-2, "Property Maintenance Code," B.R.C. 1981, no persons except the following persons shall occupy a dwelling unit:~~

~~(1) Members of a family plus up to two additional persons. Quarters that roomers use shall not exceed one-third of the total floor area of the dwelling unit and shall not be a separate dwelling unit;~~

~~(2) Up to any five persons except within a residential development exceeding a density of 1,600 square feet of lot area per dwelling unit in the RH-2 and RH-5 zoning districts up to four persons;~~

~~(3) Three persons and any of their children by blood, marriage, guardianship, including foster children, or adoption; or~~

~~(4) A nonconforming occupancy meeting the requirements of Subsection (c) of this section.~~

~~(5) The occupancy level allowed by Subparagraphs 9-8-5 (a)(2) and (a)(3) do not apply to nonconforming uses or nonconforming occupancies.~~

~~(b) Accessory Dwelling Unit: The principal dwelling unit and accessory dwelling unit shall be considered one dwelling unit. The occupancy of the principal dwelling unit together~~

with the occupancy of any accessory dwelling unit shall not exceed the occupancy requirements set forth in this section for one dwelling unit; provided, however, for purposes of this subsection only, any occupant and his or her dependents shall be counted as one person. The floor area limitation for quarters used by roomers under Paragraph 9-8-5(a)(1), B.R.C. 1981, shall not apply to an accessory dwelling unit.

(c) Nonconforming Occupancy in Dwelling Units: A dwelling unit that has a legally established occupancy higher than the occupancy level allowed by Subsection (a) of this section may maintain such occupancy of the dwelling unit as a nonconforming occupancy, subject to the following:

(1) The higher occupancy level was established because of a rezoning of the property, an ordinance change affecting the property, or other city approval;

(2) The rules for continuation, restoration, and change of a nonconforming use set forth in Chapter 9-10, "Nonconformance Standards," B.R.C. 1981, and Section 9-2-15, "Use Review," B.R.C. 1981;

(3) Units with an occupancy greater than five unrelated persons shall not exceed a total occupancy of the dwelling unit of one person per bedroom;

(4) The provisions of Chapter 10-2, "Property Maintenance Code," B.R.C. 1981; and

(5) If a property owner intends to sell a dwelling unit with a non-conforming occupancy that exceeds the occupancy limits in Subsection 9-8-5(a), B.R.C. 1981, every such contract for the purchase and sale of a dwelling unit shall contain a disclosure statement that indicates the allowable occupancy of the dwelling unit.

(d) Nonconforming Uses: A nonconforming residential use that is not permitted by Section 9-6-1, "Schedule of Permitted Land Uses," B.R.C. 1981, or is a lot or parcel that does not meet the density requirements of Chapter 9-8, "Intensity Standards," B.R.C. 1981, is subject to the following:

(1) Unless the occupancy was established meeting the requirements of Subsection (c) of this section, the occupancy of a nonconforming use per dwelling cannot be more than:

(A) Three unrelated persons in P, A, RR, RE, and RL zones;

(B) Four unrelated persons in MU, RM, RMX, RH, BT, BC, BMS, BR, DT, IS, IG, IM, and IMS zones; or

(C) Two persons and any of their children by blood, marriage, guardianship, including foster children, or adoption.

(2) The rules for continuation, restoration, and change of a nonconforming use set forth in Chapter 9-10, "Nonconformance Standards," B.R.C. 1981, and Section 9-2-15, "Use Review," B.R.C. 1981, apply except that occupancy cannot be more than that permitted by Subparagraph (1).

(e) Cooperative Housing License: A dwelling unit licensed as a cooperative housing unit pursuant to Section 10-11-3, "Cooperative Housing Licenses," B.R.C. 1981, shall not be subject to the occupancy limits or any exceptions as set forth in this section; and an

~~attached accessory dwelling unit or detached accessory dwelling unit licensed with such dwelling unit as a cooperative housing unit shall not be subject to the occupancy standards of Subparagraph 9-6-3(n)(1)(A)(ii), "Occupancy Requirements," B.R.C. 1981. All such dwelling units together with any attached accessory dwelling unit or detached accessory dwelling unit so licensed shall be limited to no fewer than five occupants with the maximum number of occupants, without regard to whether the occupants are related or not, as follows:~~

~~(1) In the RR, RE and RL zone districts to no more than twelve occupants, provided, however, that occupancy shall not exceed more than one person per two hundred square feet of habitable space;~~

~~(2) In all other zone districts to no more than fifteen occupants, provided, however, that occupancy shall not exceed more than one person per two hundred square feet of habitable space; and~~

~~(3) The city manager may authorize a greater number of occupants in any cooperative housing unit that is deed restricted as permanently affordable if the planning board after a public hearing recommends a greater number. Before making any such recommendation, the planning board shall consider the potential impacts on the surrounding community, the number of residents proposed, the proposed habitable square feet per person, the available off-street parking, and the mission of the cooperative.~~

~~(f) Prohibition: No person shall occupy a dwelling unit or accessory dwelling unit in violation of this section or intentionally or negligently misrepresent the permitted occupancy of a dwelling unit or accessory dwelling unit in violation of this section.~~

Section 41. Section 9-8-6, "Occupancy Equivalencies for Group Residences," B.R.C. 1981, is amended to read as follows:

9-8-6. Density ~~Occupancy~~ Equivalencies for Group Residences and Hostels.

The permitted density~~/occupancy~~ for the following uses shall be ~~computed~~ calculated as indicated below. The density~~/occupancy~~ equivalencies shall not be used to convert existing uses referenced in this section to dwelling units except as set forth in subsection (g). The number of allowed dwelling units shall be determined by using Section 9-8-1, "Schedule of Intensity Standards," B.R.C. 1981:

(a) Boarding or Rooming House, Fraternity, Sorority, or Dormitory: In boarding or rooming houses, fraternities, sororities, or dormitories, three sleeping rooms ~~Accommodations for three occupants in any boarding or rooming house, fraternity, sorority, or dormitory~~ constitute one dwelling unit.

(b) Hostel: In hostels, three sleeping rooms ~~Accommodations for three occupants in any hostel~~ constitute one dwelling unit, but the planning board may increase the density of a hostel to four ~~occupants~~ sleeping rooms per dwelling unit through a use review as provided in Section 9-2-15, "Use Review," B.R.C. 1981.

(c) Custodial Care and Residential Care Facilities: In custodial care and residential care facilities, ~~The occupancy of a custodial care or a residential care facility must meet the requirements of Subsection 9-6-3(j), B.R.C. 1981~~ eight sleeping rooms or accommodations without kitchen facilities constitute one dwelling unit. If units are provided in a household living configuration, one detached dwelling unit constitutes one dwelling unit and one attached dwelling unit constitutes one dwelling unit.

(d) Group Home Facilities: In group home facilities, eight sleeping rooms or accommodations without kitchen facilities constitute one dwelling unit. If units are provided in a household living configuration, one detached dwelling unit constitutes one dwelling unit and one attached dwelling unit constitutes one dwelling unit.~~The occupancy of a group home facility must meet the requirements of Subsection 9-6-3(l), B.R.C. 1981~~.

…

(g) Conversion of Rooming Units to Dwelling Units: Pursuant to approval of a use review under Sections 9-2-15, "Use Review," B.R.C. 1981, for nonconforming uses, r~~R~~ooming units in RM and RH zoning districts that were legally established under prior zoning ordinances and have continued as a legal nonconforming use may be converted to dwelling units at a ratio of four rooming units to one dwelling unit.

Section 42. Section 9-8-7, "Density and Occupancy of Efficiency Living Units," B.R.C. 1981, is amended to read as follows:

9-8-7. Density ~~and Occupancy~~ of Efficiency Living Units.

(a) Dwelling Unit Equivalents for Efficiency Living Units: For purposes of the density limits of Section 9-8-1, "Schedule of Intensity Standards," B.R.C. 1981, two efficiency living units constitute one dwelling unit.

(b) Dwelling Unit Equivalents for Moderate Income Housing: For purposes of counting dwelling units under the provisions of Ordinance No. 4638, as amended, "Moderate Income Housing," one efficiency living unit equals one dwelling unit.

~~(c) Maximum Occupancy: No more than three persons shall occupy an efficiency living unit.~~

Section 43. Section 9-9-5, "Site Access Control," B.R.C. 1981, is amended to read as follows:

9-9-5. Site Access Control.

(a) Access Control: Vehicular access to property from the public right-of-way shall be controlled in such a manner as to protect the traffic-carrying capacity and safety of the street upon which the property abuts and access is taken, ensuring that the public use and purpose of public rights of way is unimpaired as well as to protect the value of the public

infrastructure and adjacent property. The requirements of this section apply to all land uses, including ~~single-family residential land uses~~detached dwelling units, as follows:

(1) For all uses, except ~~single-family residential~~for detached dwelling units, the standards shall be met prior to a final inspection for any building permit for new development; redevelopment exceeding twenty-five percent of the value of the existing structure; or the addition of a dwelling unit. For purposes of this paragraph (1), the applicant shall demonstrate the value of the existing structure by submitting, at the discretion of the applicant, either the actual value assessed by the Boulder County Assessor's Office or the fair market value determined by a real estate appraiser licensed in Colorado.

(2) For ~~single-family residential uses~~detached dwelling units, the standards of this section shall be met prior to a final inspection for any building permit for new development; the demolition of a principal structure; or the conversion of an attached garage or carport to a use other than use as a parking space.

…

(c) Standards and Criteria for Site Accesses and Curb Cuts: Any access or curb cut to public rights of way shall be designed in accordance with the City of Boulder Design and Construction Standards and the following standards and criteria:

…

(6) Multiple Access Points for ~~Single-Family Residential~~ Detached Dwelling Units: The city manager will permit multiple access points on the same street for a single lot containing a detached dwelling unit ~~single-family residential lots~~ upon finding that there is at least one hundred linear feet of lot frontage adjacent to the front yard on such street, the area has a limited amount of pedestrian activity because of the low density character, and there is enough on-street parking within three hundred feet of the property to meet the off-street parking needs of such area. The total cumulative width of multiple curb cuts shall not exceed the maximum permitted width of a single curb cut. The minimum spacing between multiple curb cuts on the same property shall not be less than sixty-five feet.

(7) Shared Driveways for Residential Structures: A lot with a detached ~~single-family residential lot~~ dwelling unit that does not have frontage on the street from which access is taken may be served by a shared driveway that meets all of the standards and criteria for shared driveways set forth in the City of Boulder Design and Construction Standards.

…

Section 44. Section 9-9-11, "Useable Open Space," B.R.C. 1981, is amended to read as follows:

9-9-11. Useable Open Space.

(a) Purpose of Open Space: The purpose of useable open space is to provide indoor and outdoor areas for passive and active uses to meet the needs of the anticipated residents, tenants, employees, customers and visitors of a property, and to enhance the environment of a development or building. Open space can be used to:

(1) Create spaces that encourage social interaction;
(2) Provide useful, attractive outdoor spaces that include both sun and shade;
(3) Provide interesting and usable places, both public and private, active and passive, inside or outside of a building, where people can be aware of the environment in and around a building or group of buildings;
(4) Provide visual connections between small open areas on a site, and larger open spaces beyond;
(5) Provide connections between the inside and the outside of a building; and
(6) Provide separation between buildings and uses.

…

(i) Prohibitions: Portions of a lot on which a structure or unenclosed use is located shall not be counted as useable open space unless allowed in subsection (d),(e),(f) or (h) of this section. Portions of a lot that are unenclosed include those areas that are designed such that they cannot be enclosed and are generally open to the sky above, except for a balcony or deck. The following are specific examples of areas that may not be counted as useable open space:

…

(8) Balconies, decks and patio areas attached to a ~~single-family~~ detached dwelling unit which are:

…

Section 45. Section 9-9-12, "Landscaping and Screening Standards," B.R.C. 1981, is amended to read as follows:

9-9-12. Landscaping and Screening Standards.

(a) Purpose: The purpose of the landscaping and screening requirements set forth in this

chapter is to:

(1) Provide minimum requirements for the landscaping of lots and parcels, street frontages, streetscapes and paved areas;
(2) Provide minimum requirements to ensure the proper installation or cultivation, and maintenance of landscaping materials;
(3) Promote sustainable landscapes and improve the quality of the environment by enhancing air quality, reducing the amount and rate of stormwater runoff, improving stormwater runoff quality, the spread of noxious weeds, and increasing the capacity for groundwater recharge;
(4) Minimize the amount of water used for landscaping by promoting Xeriscape™ practices and improving irrigation efficiency;
(5) Enhance the appearance of both residential and nonresidential areas, and reduce the visual impacts of large expanses of pavement and rock; and
(6) Minimize impacts between uses both on-site and off-site. Landscaping can improve the compatibility of adjacent land uses and screen undesirable views. The landscaping standards also enhance the streetscape by separating the pedestrian from motor vehicles, auto fumes, and dust, providing shade, attenuating noise, and filtering air, buffering wind, and reducing glare.

…

(d) General Landscaping and Screening Requirements:

(1) Landscaping Plan: A landscaping plan designed in accordance with this section and Sections 9-9-13, "Streetscape Design Standards," and 9-9-14, "Parking Lot Landscaping Standards," B.R.C. 1981, shall be provided for all developments. The site plan shall include the following:

(A) A site plan with a north arrow showing the major details of the proposed landscaping and irrigation, prepared on a scale not less than ~~one inch~~one-inch equals thirty feet providing sufficient detail to evaluate the features of the landscaping and irrigation required by this section and Sections 9-9-13, "Streetscape Design Standards," and 9-9-14, "Parking Lot Landscaping Standards," B.R.C. 1981;

(B) The location of property lines and adjacent streets, the zoning and use of adjacent properties, the existing and proposed locations of all buildings, sidewalks and curb cuts, bike paths and pedestrian walkways, drive aisles and curb islands, ~~utilities, and~~and utilities, easements, and the existing location, size, and type of all trees one and one-half inch caliper or greater;

…

(5) Screening of Trash Collection and Recycling Areas, Service Areas, and Loading Areas: In nonresidential and multi-~~family~~ unit residential developments, trash collection and recycling areas, service areas, and loading areas shall be screened

on all sides so that no portion of such areas are visible from public streets and alleys and adjacent properties. Required screening may include new and existing plantings, walls, fences, screen panels, doors, topographic changes, buildings, horizontal separation, or any combination thereof.

Section 46. Section 9-9-13, "Streetscape Design Standards," B.R.C. 1981, is amended to read as follows:

9-9-13. Streetscape Design Standards.

Streetscape improvements shall be designed in accordance with the following standards:

(a) Scope: The standards set forth in this section apply to all land uses, including ~~single-family residential land uses~~detached dwelling units.

(b) Street Trees: A planting strip consisting of deciduous trees shall be planted along the full length of all public and private streets in all zoning districts. When possible, trees shall be planted in the public right-of-way. Large deciduous trees and detached sidewalks are required wherever possible and shall be planted at a minimum, in accordance with subsection (d) of this section.

(c) Alley Trees: Except for existing ~~single-family~~ lots with a detached dwelling unit, along all alleys adjacent to or within a residential zone, trees shall be planted at an overall average of one tree per forty linear feet within ten feet of the pavement or edge of alley.

…

Section47. Section 9-10-3, "Changes to Nonstandard Buildings, Structures, and Lots and Nonconforming Uses," B.R.C. 1981, is amended to read as follows:

9-10-3. Changes to Nonstandard Buildings, Structures, and Lots and Nonconforming Uses.

Changes to nonstandard buildings, structures, or nonstandard lots and nonconforming uses shall comply with the following requirements:

…

(b) Nonstandard Lots or Parcels:

(1) Development Requirements: Vacant lots in all residential districts except RR-1 and RR-2 which are smaller than the lot sizes indicated in Section 9-8-1, "Schedule of Intensity Standards," B.R.C. 1981, but larger than one-half of the required zoning district minimum lot size, may be developed with a ~~single-family~~

detached dwelling unit if the building meets the setback requirements of Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981. In RR-1 and RR-2 districts, lots which are smaller than the minimum lot size but larger than one-fourth of the minimum lot size may be developed if the building meets the setback requirements. In all other zoning districts, vacant lots which are below one-half of the required minimum lot size for the zoning district shall not be eligible for construction of principal buildings.

…

Section 48. Section 9-13-3, "General Inclusionary Housing Requirements," B.R.C. 1981, is amended to read as follows:

9-13-3. General Inclusionary Housing Requirements.

(a) Inclusionary Housing Requirements.

(1) A development is required to include at least twenty-five percent of the total number of dwelling units as permanently affordable units.

(2) For required for-sale permanently affordable units, townhouses and ~~single-family homes~~detached dwelling units shall have prices set to be affordable to one hundred twenty percent of the AMI. All other types of permanently affordable for-sale units shall have prices set to be affordable to one hundred percent of the AMI.

…

Section 49. Section 9-13-7, "Relationship of Permanently Affordable Units to Market Units," B.R.C. 1981, is amended to read as follows:

9-13-7. Relationship of Permanently Affordable Units to Market Units.

(a) Purpose: Permanently affordable units shall be comparable in quality, design and general appearance to the market rate units creating the inclusionary housing requirement.

(b) Detached Dwelling Units: When a development contains ~~single-family~~ detached dwelling units, a proportional number of the required permanently affordable units shall also be ~~single-family~~ detached dwelling units or attached townhouses.

(c) Mixed Dwelling Unit Types: In developments with a mixture of dwelling unit types, including, without limitation, ~~single-family~~ detached dwelling units, townhouses, duplexes, triplexes, four-plexes, eight-plexes, and stacked flats, the required permanently affordable units shall be comprised of the different dwelling unit types in the same

proportion as the dwelling units that are not permanently affordable within the development except as allowed in Subsection (b) above.

…

Section 50. Section 9-15-4, "Criminal Sanctions," B.R.C. 1981, is amended to read as follows:

9-15-4. Criminal Sanctions.

(a) The city attorney, acting on behalf of the people of the city, may prosecute any violation of this title or any approval granted under this title in municipal court in the same manner that other municipal offenses are prosecuted.

(b) The penalty for violation of any provision of this title is a fine of not more than $2,650~~000~~.00 per violation. The limitation of this fine shall be adjusted for inflation on January 1, 2025, and on January 1 of each year thereafter. As used in this subsection, "inflation" means the Colorado consumer price index or a similar index that is tied to the annual rate of inflation in the state or Denver-Boulder metropolitan area. In addition, upon conviction of any person for violation of this title, the court may issue a cease and desist order and any other orders reasonably calculated to remedy the violation. Violation of any order of the court issued under this section is a violation of this section and is punishable by a fine of not more than $4,000.00 per violation, or incarceration for not more than ninety days in jail or both such fine and incarceration.

~~(c) Notwithstanding the provisions of subsection (b) of this section, the following specific sentencing considerations shall apply to fines imposed for violations of section 9-8-5, "Occupancy of Dwelling Units," B.R.C. 1981:~~

~~(1) The court shall consider any evidence presented by the defendant that a potential fine would be confiscatory. A confiscatory fine is a fine that would deprive a normally capitalized owner of the ability to continue operating a rental housing business of the sort involved in the case before the court. No fine that is confiscatory shall be enforced by the court.~~

~~(2) In imposing a fine in any single case or in any consolidated cases, the court may weigh all factors normally and properly considered in connection with the imposition of fines, including the seriousness of the violation, the past record of the defendant, the economic circumstances of the defendant and all mitigating or aggravating factors relevant to the violation or to the defendant. In addition, in determining the amount of any fine, the court may consider:~~

~~(A) The imposition of a fine that would deprive the defendant of any illegal profit collected because of the occurrence of the over-occupancy violation or violations on the rental housing property;~~

~~(B) The imposition of a reasonable penalty in addition to any level of fine that is attributable to illegally obtained profit; and~~

~~(C) The imposition of such additional fine as is determined by the court to constitute a reasonable amount to be suspended in order to ensure compliance with any terms of probation imposed by the court.~~

~~(3) No fine imposed in a single case alleging multiple dates of violation, nor any fine in consolidated cases alleging multiple days of violation, shall exceed the maximum fine that might be imposed for fifteen separate violations unless the court finds special aggravating circumstances. Where special aggravating factors are at issue, the following procedures shall apply:~~

~~(A) The defendant shall be entitled to ten days' notice of any special aggravating factors upon which the prosecution intends to rely at the sentencing hearing or about which, based upon evidence previously presented, the court is concerned. If necessary in order to provide such notice, a defendant shall be entitled to a continuance of the sentencing hearing.~~

~~(B) A judicial finding of the existence of special aggravating factors shall not mandate that the court impose any particular level of fine but will, rather, provide the sentencing court with discretion to determine a fine based upon all the criteria set forth in this subsection.~~

~~(C) Special aggravating factors, for the purpose of this subsection, shall require a judicial finding of one or more of the following:~~

~~(i) The occupancy violations at issue were flagrant and intentional on the part of the defendant;~~

~~(ii) The defendant, after learning of the over-occupancy condition, failed to attempt corrective action over a sustained period of time; or~~

~~(iii) A fine equivalent to the maximum fine permitted for fifteen separate violations would be inadequate to disgorge the defendant of illegal profits obtained as a consequence of the violations or would be inadequate to ensure that the violation is neither profitable nor revenue neutral for the offender.~~

Section 51. Section 9-15-9, "Multiple Dwelling Units and Occupancy- Specific Defenses," B.R.C. 1981, is amended to read as follows:

9-15-9. Multiple Dwelling Units ~~and Occupancy -~~ Specific Defenses.

(a) Specific Defenses to Alleged Violations Related to Multiple Dwelling Units: If a charge of violation of any provision of chapter 9-5, "Modular Zone System," 9-6, "Use Standards," 9-7, "Form and Bulk Standards," 9-8, "Intensity Standards," or 9-9, "Development Standards," B.R.C. 1981, is premised solely upon the multiple dwelling units provisions of subsection 9-16-1(c), B.R.C. 1981, it is a specific defense to such charge that, on a continuing basis, the residents of the dwelling unit share utilities and

keys to all entrances to the property and that they function as a single housekeeping unit. For purposes of this section, to function as a single housekeeping unit means to share major functions associated with residential occupancy and to share a single common kitchen as the primary kitchen.

~~(b) Specific Defenses to Alleged Violations Related to Occupancy of Units for Guest Occupancy: If a charge of violation of any provision of chapters 9-6, "Use Standards," and 9-7, "Form and Bulk Standards," or section 9-8-5, "Occupancy of Dwelling Units," B.R.C. 1981, is premised upon exceeding allowable occupancy limits based upon the number of persons residing in or occupying a dwelling unit, it is a specific defense as to any alleged occupant that such person spent the night in the unit without remuneration as a social guest for periods of time which never exceeded a cumulative total of fourteen nights in any ninety day period. Spending the night for the purposes of this subsection means to be on the premises during the hours of 12:00 midnight through 5:00 a.m., or to sleep on the premises for more than five hours at any time in any twenty-four hour period. If the defense is established as to an alleged occupant, that person shall be considered a social guest and not an occupant for the purposes of proof of the charge of violation. Conversely, any person who spends more than a cumulative total of fourteen nights in any ninety day period in any dwelling unit is an occupant of that unit for those nights for the purposes of the occupancy limits established in this title.~~

~~(c) Specific Defenses to Alleged Violations Related to Occupancy of a Unit Which Is a Rental Property: The following shall constitute specific defenses to any alleged violation of subsection 9-8-5(a), B.R.C. 1981, relating to the occupancy of units:~~

~~(1) It shall be a specific defense to an alleged violation of subsection 9-8-5(a), B.R.C. 1981, that a defendant is a nonresident landlord or nonresident property manager and:~~

~~(A) Prior to the initiation of the prosecution process, the defendant undertook and pursued means to avoid over-occupancy violations by:~~

~~(i) complying with advertising requirements of Chapter 10-3-2, B.R.C. 1981 and the posting requirements of Chapter 10-3-20, B.R.C. 1981;~~

~~(ii) receiving rent payments from only those persons on a lease that includes no more than the number of tenants associated with the occupancy limitation of the unit; and~~

~~(iii) requiring each tenant to acknowledge, through a lease provision or otherwise, the established occupancy limitation for the unit; and~~

~~(B) The defendant had no actual knowledge of the over-occupancy of the relevant rental housing property prior to the initiation of the prosecution process. However, this specific defense shall not apply when a defendant reasonably should have been aware of the occupancy violation.~~

~~(C) For the purposes of this subsection, the initiation of a prosecution process occurs when any of the following events occurs:~~

~~(i) A potential defendant is first contacted by a city investigator in connection with the investigation of an occupancy violation;~~

~~(ii) A summons and complaint alleging an occupancy violation is served upon a defendant; or~~

~~(iii) A criminal complaint is filed against a defendant alleging an occupancy violation.~~

~~(D) For purposes of this subsection, a nonresident landlord or nonresident property manager means a person who is neither a full-time nor part-time resident of the property that he or she owns or manages.~~

Section 52. Section 9-14-3, "Design Goals for the Form-Based Code Areas," is amended to read as follows, as part of a new Chapter 14, "Form Based Code Standards," B.R.C. 1981:

9-14-3. DESIGN GOALS FOR THE FORM-BASED CODE AREAS

The requirements of this chapter are intended to accomplish the following objectives:

(a) **Character, Context, and Scale.** Preserve or enhance the character, context, and scale planned for the area while supporting a more sustainable future by accommodating future residents, reducing dependence on single occupant vehicles, increasing energy efficiency, and promoting safe transportation options for pedestrians and bicycles.

(b) **Human-Scaled Building Design.** Design to a human scale and create a safe and vibrant pedestrian experience.

(c) **Building Design Quality and Aesthetics.** Design high-quality buildings that are compatible with the character of the area or the character established by adopted plans for the area through simple, proportional, and varied design, high quality and natural building materials that create a sense of permanence, and building detailing, materials and proportions.

(d) **A Variety of Housing Types.** Produce a variety of housing types, such as ~~multifamily~~ multi-unit dwelling units, townhouses, and detached ~~single family~~ dwelling units, as well as a variety of lot sizes, number of bedrooms per unit, and sizes of units within the form-based code area.

(e) **Adaptable Buildings.** Build adaptable buildings with flexible designs that allow changes in uses over time.

(f) **Provision of Outdoor Space.** Provide outdoor space that is accessible and close to buildings. Active and passive recreation areas will be designed to meet the needs of anticipated residents, occupants, employees, and visitors to the property.

(g) **Support of Multi-Modal Mobility.** Provide safe and convenient multi-modal connections and promote alternatives to the single occupant vehicle. Connections shall be accessible to the public within the project and between the project and the existing and

proposed transportation systems, including, without limitation, streets, bikeways, paseos, and multi-use paths.

Section 53. Section 9-14-4, "Organization and Scope," B.R.C. 1981, is amended to read as follows, as part of a new Chapter 14, "Form Based Code Standards," B.R.C. 1981:

9-14-4. ORGANIZATION AND SCOPE

This section describes how this chapter is organized to provide the user with some guidance using this chapter and it addresses the scope of its application.

(a) **Organization.** This chapter is organized into the following sections:

(1) **Sections 9-14-1 through 9-14-8: General Provisions.** The general provisions include a purpose statement for the form-based code, a description of where the requirements for the form-based code apply, a description of this chapter's organization and scope, the regulating plans for each form-based code area, and definitions that apply to the terms of this chapter.

(2) **Sections 9-14-9 through 9-14-13: Site Design.** These sections establish general site design and minimum outdoor space requirements, applicable to all form-based code areas, unless otherwise specified. Outdoor space types are established to guide the design of common outdoor spaces.

(3) **Sections 9-14-14- through 9-14-26: Building Types.** These sections establish a variety of building types and building form, design, location, and use requirements applicable to each building type. The regulating plans determine which building type may be used on a particular site.

(4) **Sections 9-14-27- through 9-14-33: Building Design.** These sections establish general building design requirements that are applicable to all of the building types, unless otherwise stated.

(b) **Scope.** The requirements of this chapter supplement those imposed on the same lands by underlying zoning provisions and generally applicable development standards of this title and other ordinances of the city. If there is a conflict between the requirements of this chapter and Title 9, "Land Use Code," B.R.C. 1981, the standards of this section control. The following describes how specific requirements of this title relate to requirements of this chapter:

(1) **Chapter 9-6: Use Standards.** Chapter 9-6, "Use Standards," B.R.C. 1981, regulates uses which are permitted, conditionally permitted, prohibited, or which may be permitted through use review. Additional use standards may be established for the different building types in sections M-1-15 through M-1-19 of this chapter.

(2) **Chapter 9-7: Form and Bulk Standards.** This chapter supersedes the standards in Chapter 9-7, "Form and Bulk Standards," B.R.C. 1981, with the exception of Sections 9-7-3, "Setback Encroachments," 9-7-5, "Building Heights," and 9-7-7, "Building Heights, Appurtenances," B.R.C. 1981. Building height shall be measured in accordance with the requirements of Section 9-7-5, B.R.C. 1981.

(3) **Chapter 9-8: Intensity Standards.** This chapter supersedes the standards in Chapter 9-8, "Intensity Standards," B.R.C. 1981, with the exception of Sections 9-8-5, "Occupancy of Dwelling Units," 9-8-6, "Density Equivalencies for Group Residences and Hostels," and 9-8-7, "Density of Efficiency Living Units," B.R.C. 1981.

(4) **Chapter 9-9: Development Standards.** Chapter 9-9, "Development Standards," B.R.C. 1981, applies to developments that are regulated by this chapter as follows:

(5) **Applicable Sections.** The following sections of Chapter 9-9, "Development Standards, " B.R.C. 1981, are applicable:

(A) **9-9-1.** Intent.
(B) **9-9-2.** General Provisions.
(C) **9-9-4.** Public Improvements.
(D) **9-9-5.** Site Access Control, in addition to the access location requirements in Section M-1-11(a) "Driveways," B.R.C. 1981.
(E) **9-9-6.** Parking Standards.
(F) **9-9-7.** Sight Triangles.
(G) **9-9-8.** Reservations, Dedication, and Improvement of Right-of-way.
(H) **9-9-9.** Loading.
(I) **9-9-10.** Easements.
(J) **9-9-12.** Landscape and Screening Standards.
(K) **9-9-13.** Streetscape Design Standards, in addition to the requirements established in M-1-10, Streetscape Design Requirements.
(L) **9-9-14.** Parking Lot Landscape Standards.
(M) **9-9-15.** Fences and Walls.
(N) **9-9-16.** Lighting, Outdoor.
(O) **9-9-17.** Solar Access.
(P) **9-9-18.** Trash Storage and Recycling Areas.
(Q) **9-9-19.** Swimming Pools, Spas, and Hot Tubs.
(R) **9-9-20.** Addressing.
(S) **9-9-21.** Signs.
(T) **9-9-22.** Trip Generation Requirements for the MU-4, RH-6, and RH-7 Zoning Districts.

(6) **Superseded Sections.** The following sections of Chapter 9-9, "Development Standards," B.R.C. 1981, are superseded by this chapter:

(A) 9-9-3, Building Design, is superseded by this chapter.

(B) 9-9-11, Useable Open Space, is superseded by the requirements of this chapter.

(c) **Other Sections and Ordinances.** The Boulder Revised Code and other ordinances of the city are applicable unless expressly waived or modified in this chapter. If there is a conflict between the requirements of this chapter and other portions of the Boulder Revised Code other than Title 9, "Land Use Code," B.R.C. 1981, the most restrictive standards shall control.

Section 54. Section 9-16-1, "General Definitions," B.R.C. 1981, is amended to read as follows:

9-16-1. General Definitions.

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

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

(1) Airport influence zone (AIZ).
(2) Floodplain regulations (Floodplain).
(3) Historic preservation (Historic).
(4) Inclusionary housing (Inclusionary Housing).
(5) Solar access (Solar).
(6) Wetlands Protection (Wetlands).
(7) Signs (Signs).

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

A—E

…

Breezeway means a roofed at grade open passage connecting a detached ~~single-family~~ dwelling unit to an accessory building. A breezeway is not a space enclosed by walls.

…

Building coverage means the maximum horizontal area within the outer perimeter of the building walls, dividers, or columns at ground level or above, whichever is the greater area, including, without limitation, breezeways, courts, and exterior stairways, but excluding:

…

(3) Up to three hundred square feet of a ~~single-family~~ detached ~~residence~~ dwelling unit front porch that is adjacent to a street;

(4) Up to one hundred fifty square feet of additional porch area not located in the front yard for a ~~single-family~~ detached ~~residence~~ dwelling unit;

(5) One accessory building, no larger than eighty square feet in size and no taller than ten feet in height, associated with a ~~single-family~~ detached ~~residence~~ dwelling unit; and

…

Conveyance zone means those portions of the floodplain required for the passage or conveyance of the ~~one-hundred-year~~one-hundred-year flood. The conveyance zone is delineated based on an equal encroachment methodology (measured in volume of water), which is applied to the floodplain from the edges of the flood channel to a point where the one-hundred-year flood profile will be raised no more than six inches, after considering a reasonable expectation of blockage at bridges and other obstructions by flood-borne debris. The city may, in its discretion, delineate the conveyance zone on city owned land or right-of-way based on unequal encroachment to minimize delineation on other properties. The conveyance zone is equivalent to a floodway delineation based on a six-inch rise. (Floodplain)

~~*Cooperative housing unit* has the same meaning as set forth in Section 10-1-1, "Definitions," B.R.C. 1981.~~

…

Expansion of nonconforming use means any change or modification to a nonconforming use that constitutes:

(1) An increase in the ~~occupancy,~~ floor area, required parking, traffic generation, outdoor storage, or visual, noise, or air pollution;

(2) Any change in the operational characteristics which may increase the impacts or create adverse impacts to the surrounding area including, without limitation, the hours of operation, noise, or the number of employees or customers;

(3) The addition of bedrooms to a dwelling unit, except a ~~single-family~~ detached dwelling unit; or

(4) The addition of one or more dwelling units.

…

F—J

Floor area for detached ~~single-family~~ dwelling units means the total habitable square footage of all levels measured to the outside surface of the exterior framing, or to the outside surface of the exterior walls if there is no exterior framing or portions thereof, which includes stairways, storage, and mechanical rooms internal to the structure, but excluding garages. (Inclusionary Housing)

…

Housing type means the particular form which an attached or detached dwelling unit takes, including, without limitation, the following: ~~single-family~~ detached ~~houses~~ dwelling units and mobile homes; ~~single-family~~ attached ~~dwellings~~ dwelling units such as townhouses and row houses; duplexes, triplexes, and apartments.

…

P—T

…

Townhouse means an attached ~~single-family~~ dwelling unit located or capable of being located on its own lot, and ~~is~~ separated from adjoining dwelling units by a wall extending from the foundation through the roof which is structurally independent of the corresponding wall of the adjoining unit.

Transitional housing means a facility providing long-term housing in multi-~~family~~ unit dwelling units with or without common central cooking facilities, where participation in a program of supportive services is required, as a condition of residency, to assist tenants in working towards independence from financial, emotional, or medical conditions that limit their ability to obtain housing for themselves.

…

Section 55. Section 10-1-1, "Definitions," B.R.C. 1981, is amended to read as follows:

10-1-1. - Definitions.[2]

(a) The following terms used in this title have the following meanings unless the context clearly indicates otherwise:

…

~~*Cooperative* means a housing arrangement in which residents share expenses, ownership or labor.~~

~~*Cooperative housing unit* means a dwelling unit in a private equity not-for-profit, permanently affordable cooperative or rental cooperative.~~

…

Rooming house means an establishment where, for direct or indirect compensation, lodging, with or without kitchen facilities or meals, is offered for one month or more for three or more roomers living independently within rooming units ~~not related to the family of the heads of the household.~~

Rooming unit means a type of housing accommodation that consists of a room or group of rooms for a roomer, arranged primarily for sleeping and study, and that may include a private bath but does not include a sink or any cooking device.

…

Section 56. Section 10-2-2, "Adoption of International Property Maintenance Code With Modifications," B.R.C. 1981, is amended to read as follows:

10-2-2. Adoption of International Property Maintenance Code With Modifications.

(a) The 2024~~18~~ edition of the *International Property Maintenance Code* (IPMC) of the International Code Council is hereby adopted by reference as the City of Boulder Property Maintenance Code and has the same force and effect as though fully set forth in this chapter, except as specifically amended for local application by this chapter.

(b) IPMC Appendix chapters A, "Boarding Standard," B, "Rental Housing Inspections," and C, "Energy Efficiency Requirement - Existing Residential Rental Structures Energy Conservation," are adopted.

(c) For ease of reference, the following identifies all chapters, sections and appendices of the published and adopted IPMC and includes specific amendments for local application. Chapter, Section, Subsection, or Appendix numbers of provisions not amended appear, followed by the words, "No changes." The amended text of specifically amended provisions appears below. Chapter, Section, Subsection, or Appendix numbers of any provisions not adopted appear, followed by the word, "Deleted."

…

SECTION 106
VIOLATIONS

106.1 Violations.

(a) General Provisions:

(1) No person shall erect, construct, enlarge, alter, extend, repair, move, remove, improve, convert, demolish, equip, use, occupy, or maintain any building or structure in the city, or cause or permit the same to be done, except in conformity with all of the provisions of this code and in conformity with the terms and conditions of approval issued under this code, or of any directive of the code official. No person shall violate a provision of this code, or fail to comply therewith or with any of the requirements thereof. No person shall fail to comply with any order issued by the code official under this code.

…

(c) Criminal Penalties. Violations of this code are punishable as provided in Section 5-2-4, "General Penalties," B.R.C. 1981.

(1) Occupancy Limitation Violations: Notwithstanding the provision of subsection (c), Criminal Penalties, of this section, the following specific sentencing considerations shall apply to fines imposed for violations of Section 404, Occupancy Limitations, of this code:

(A) The court shall consider any evidence presented by the defendant that a potential fine would be confiscatory. A confiscatory fine is a fine that would deprive a normally capitalized owner of the ability to continue operating a rental housing business of the sort involved in the case before the court. No fine that is confiscatory shall be enforced by the court.

(B) In imposing a fine in any single case or in any consolidated cases, the court may weigh all factors normally and properly considered in connection with the imposition of fines, including the seriousness of the violation, the past record of the defendant, the economic circumstances of the defendant and all mitigating or aggravating factors relevant to the violation or to the defendant. In addition, in determining the amount of any fine, the court may consider:

(i) The imposition of a fine that would deprive the defendant of any illegal profit collected because of the occurrence of the over-occupancy violation or violations on the rental housing property;

(ii) The imposition of a reasonable penalty in addition to any level of fine that is attributable to illegally obtained profit; and

(iii) The imposition of such additional fine as is determined by the court to constitute a reasonable amount to be suspended in order to ensure compliance with any terms of probation imposed by the court.

(C) No fine imposed in a single case alleging multiple dates of violation, nor any fine in consolidated cases alleging multiple days of violation, shall exceed the maximum fine that might be imposed for fifteen separate violations unless the court finds special aggravating circumstances. Where special aggravating factors are at issue, the following procedures shall apply:

(i) The defendant shall be entitled to ten days' notice of any special aggravating factors upon which the prosecution intends to rely at the sentencing hearing or about which, based upon evidence previously presented, the court is concerned. If necessary in order

to provide such notice, a defendant shall be entitled to a continuance of the sentencing hearing.

(ii) A judicial finding of the existence of special aggravating factors shall not mandate that the court impose any particular level of fine but will, rather, provide the sentencing court with discretion to determine a fine based upon all the criteria set forth in this subsection.

(iii) Special aggravating factors, for the purpose of this subsection, shall require a judicial finding of one or more of the following:

a. The occupancy violations at issue were flagrant and intentional on the part of the defendant;

b. The defendant, after learning of the over-occupancy condition, failed to attempt corrective action over a sustained period of time; or

c. A fine equivalent to the maximum fine permitted for fifteen separate violations would be inadequate to disgorge the defendant of illegal profits obtained as a consequence of the violations or would be inadequate to ensure that the violation is neither profitable nor revenue neutral for the offender.

(2) Specific Defenses to Alleged Violations:

(A) Specific Defenses to Alleged Violations Related to Occupancy of Units for Guest Occupancy: Occupancy limitation violations are premised upon exceeding allowable occupancy limits based upon the number of persons residing in or occupying a dwelling unit pursuant to Section 404, Occupancy Limitations. It is a specific defense as to any alleged occupant that such person spent the night in the unit without remuneration as a social guest for periods of time which never exceeded a cumulative total of fourteen nights in any ninety-day period. Spending the night for the purposes of this subsection means to be on the premises during the hours of 12:00 midnight through 5:00 a.m., or to sleep on the premises for more than five hours at any time in any twenty-four-hour period. If the defense is established as to an alleged occupant, that person shall be considered a social guest and not an occupant for the purposes of proof of the charge of violation. Conversely, any person who spends more than a cumulative total of fourteen nights in any ninety-day period in any dwelling unit is an occupant of that unit for those nights for the purposes of the occupancy limits established in this code.

(B) Specific Defenses to Alleged Violations Related to Occupancy of a Unit Which Is a Rental Property: The following shall constitute specific

defenses to any alleged violation of Section 404 of this code relating to the occupancy of units:

(i) It shall be a specific defense to an alleged violation of Section 404 that a defendant is a nonresident landlord or nonresident property manager and:

a. Prior to the initiation of the prosecution process, the defendant undertook and pursued means to avoid over-occupancy violations by:

1. receiving rent payments from only those persons on a lease that includes no more than the number of tenants associated with the occupancy limitation of the unit; and
2. requiring each tenant to acknowledge, through a lease provision or otherwise, the established occupancy limitation for the unit; and

(ii) The defendant had no actual knowledge of the over-occupancy of the relevant rental housing property prior to the initiation of the prosecution process. However, this specific defense shall not apply when a defendant reasonably should have been aware of the occupancy violation.

(iii) For the purposes of this paragraph, the initiation of a prosecution process occurs when any of the following events occurs:

1. A potential defendant is first contacted by a city investigator in connection with the investigation of an occupancy violation;
2. A summons and complaint alleging an occupancy violation is served upon a defendant; or
3. A criminal complaint is filed against a defendant alleging an occupancy violation.

(iv) For purposes of this paragraph, a nonresident landlord or nonresident property manager means a person who is neither a full-time nor part-time resident of the property that he or she owns or manages.

(d) Other Remedies. The city attorney may maintain an action for damages, declaratory relief, specific performance, injunction, or any other appropriate relief in the District Court in and for the County of Boulder for any violation of any provision of this code or any approval granted under this code.

(e) Declaration of Use. If the code official determines that a person is using a structure in a way that might mislead a reasonable person to believe that such use is a use by right or otherwise authorized by this title, the code official may require such person to sign under oath a declaration of use that defines the limited nature of the use and to record such declaration in the office of the Boulder County Clerk and Recorder against the title to the land. In addition to all other remedies and actions that the code official is authorized to use under the Boulder Revised Code or other applicable federal, state, or local laws to enforce the provisions of this code, the code official is authorized to withhold any approval affecting such structure or land, including, without limitation, a building permit, use review, site review, subdivision, floodplain development permit, or wetland permit, until such time as the person submits a declaration of use that is in a form acceptable to the code official.

106.2—106.3 Deleted.
106.4 Violation Penalties. Deleted.
106.5 Abatement of Violation. No changes.

Section 57. Section 10-3-2, "Rental License Required Before Occupancy and License Exemptions.," B.R.C. 1981, is amended to read as follows:

10-3-2. Rental License Required Before Occupancy and License Exemptions.

(a) No operator shall allow, or offer to allow through advertisement or otherwise, any person to occupy any dwelling, dwelling unit or rooming unit as a tenant or lessee or otherwise for a valuable consideration unless each room or group of rooms constituting the rental property has been issued a valid rental license by the city manager, provided however, an operator may advertise for a rental of thirty days or longer, if the operator has submitted a complete rental licensing application or is advertising for pre-leasing of new construction. Any advertisement shall include the rental licensing number once assigned by the city manager.

(b) Buildings, or building areas, described in one or more of the following paragraphs are exempted from the requirement to obtain a rental license from the city manager, provided, however that the exemptions in subsections (b)(1) and (b)(2) below shall not apply to short-term rentals. No operator shall allow any person to occupy any dwelling, dwelling unit or rooming unit exempted pursuant to subsections (b)(1) and (b)(2) below prior to submitting to the city manager an Affidavit of Exemption for the dwelling, dwelling unit or rooming unit. No person shall be issued any civil penalty or summons for failure to submit an Affidavit of Exemption, unless the person has previously been advised in writing of this requirement.

(1) Any dwelling unit occupied by the owner or members of the owner's family who are at least 21 years of age and housing ~~no more than two~~ roomers who are unrelated

to the owner or the owner's family. An owner includes an occupant who certifies that the occupant owns an interest in a corporation, firm, partnership, association, organization or any other group acting as a unit that owns the rental property.

(2) A dwelling unit meeting all of the following conditions:

(A) The dwelling unit constitutes the owner's principal residence;
(B) The dwelling unit is temporarily rented by the owner for one~~a~~ period of time no greater than twelve consecutive months in any twenty-four-month period;

…

Section 58. Section 10-3-19, "Short-Term Rentals," B.R.C. 1981, is amended to read as follows:

10-3-19. Short-Term Rentals.

(a) Short-term rentals are prohibited unless the city manager has issued a valid short-term rental license for the property.

…

(i) The occupancy of a dwelling unit rented as a short-term rental shall not exceed the occupancy permitted pursuant to ~~Section 9-8-5, "Occupancy of Dwelling Units," B.R.C. 1981 and~~ Chapter 10-2, "Property Maintenance Code," B.R.C. 1981.~~; provided, however, for the purposes of this section only, the licensee and people related to the licensee shall be counted as one person~~.

…

(l) No person shall advertise a short-term rental, unless the advertisement includes the valid short-term rental license number once assigned by the city manager~~and the maximum unrelated occupancy permitted in the unit~~.

…

(o) An accessory dwelling unit or a principal dwelling unit on a ~~single-family~~detached dwelling unit lot or parcel with an accessory unit may not be rented as a short-term rental unless all the following requirements are met:

…

Section 59. Section 10-3-20, "Occupancy," B.R.C. 1981, is repealed and reserved:

10-3-20. ~~Occupancy.~~ Reserved.

~~(a) Every operator of any property with fewer than five dwelling units, shall at the time any dwelling unit is shown to any prospective renter, post conspicuously on the inside of the main entrance to each dwelling unit a sign listing a maximum occupancy number that shall be no greater than the maximum number of unrelated individuals permitted under Section 9-8-5, "Occupancy of Dwelling Units," B.R.C. 1981 in a form specified by the city manager. Any such sign may include an occupancy limit smaller than that allowed by Section 9-8-5.~~

~~(b) Each license shall include a notation of the legal occupancy, including the number of unrelated individuals permitted for each dwelling unit covered by the license. Acceptance of the license shall constitute a waiver of any claim for a non-conforming occupancy in excess of the occupancy stated on the license. The notation on the license shall also not provide the basis for an assertion of non-conforming occupancy.~~

~~(c) Each advertisement for rental shall include a statement of the maximum occupancy, such statement shall include a number no greater than the number of unrelated individuals permissible pursuant to Section 9-8-5, B.R.C. 1981 of the dwelling unit to be rented. Any such advertisement may include an occupancy limit smaller than that allowed by Section 9-8-5.~~

Section 60. Chapter10-11, "Cooperative Housing," B.R.C. 1981, is repealed in its entirety and reserved:

Chapter 11 ~~Cooperative Housing~~ Reserved.

~~10-11-1. Legislative Intent.~~

~~(a) The City Council intends to facilitate cooperative living arrangements. The Council finds that cooperative living arrangements can provide an affordable alternative for living in Boulder. In addition, cooperative arrangements can provide supportive and fulfilling community for their residents. The City Council seeks to balance the benefits of cooperative living against the impacts from the increased density that comes along with cooperative living. The City Council also is concerned about cooperatives competing in a tight housing market with families seeking single family homes. The City Council intends to monitor the implementation and effects of this ordinance.~~

~~(b) The City Council intends that all licensed cooperatives be legitimate cooperatives. A legitimate cooperative is a group living arrangement in which the residents have a high degree of social cohesion and teamwork. The residents typically govern through consensus and share responsibilities and resources. New members are typically selected by the community's existing membership, rather than by real estate agents, property managers or non-resident landowners.~~

10-11-2. Cooperative License Required Before Occupancy.

No person shall occupy, allow, or offer to allow through advertisement or otherwise, any person to occupy any cooperative housing unit unless the cooperative housing unit has been issued a valid cooperative housing license by the city manager. Nothing in this chapter shall relieve any person of the obligation to comply with any other requirement of this code, including, but not limited to the requirements of Chapter 10-3 "Rental Licenses," B.R.C. 1981, the requirements of Chapter 10-2, "Property Maintenance Code," Appendix C - "Energy Efficiency Requirements," B.R.C. 1981 and the requirements of Section 10-2-2 "Adoption of International Property Maintenance Code With Modifications," B.R.C. 1981.

10-11-3. Cooperative Housing Licenses.

(a) License terms shall be as follows:

(1) Licenses shall expire four years from issuance or when ownership of the licensed property is transferred.

(A) In addition to any other applicable requirements, new licenses and renewals shall require that the licensee submit to the city manager a completed current baseline (for a new license) or renewal inspection report, on forms provided by the City. The report shall satisfy the following requirements:

(i) The section of the report concerning fuel burning appliances must be executed by a qualified heating maintenance person certifying compliance with those portions of Chapter 10-2, "Property Maintenance Code," B.R.C. 1981, for which the report form requires inspection and certification.

(ii) The section of the report concerning smoke and carbon monoxide alarms must be executed by the operator certifying that the operator inspected the smoke and carbon monoxide alarms in the licensed property and that they complied with the requirements of Chapter 10-2, "Property Maintenance Code," B.R.C. 1981.

(iii) The section of the report concerning trash removal must be executed by the operator certifying that the operator has a current valid contract with a commercial trash hauler for removal of accumulated trash from the licensed property in accordance with Subsection 6-3-3(b), B.R.C. 1981.

(b) 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. Licenses not renewed within ninety days will be considered expired, requiring a new baseline inspection report.

(c) The city manager shall issue no more than ten new cooperative housing licenses in any calendar year. Provided, however, if in any calendar year, after the city manager issued ten licenses, there are fewer than two licenses issued to not-for-profit permanently affordable cooperatives, private equity cooperatives or rental cooperatives, the city manager may issue sufficient additional license so that there are at least two licensees

~~issued in each category up to a total of no more than fourteen licenses for all categories in any calendar year.~~

~~If an application for a cooperative housing unit exceeds the limits set forth in this subparagraph (c), the city manager will place the applicant on a waiting list. Applicants on the waiting list shall be given priority for consideration of applications in the next calendar year.~~

~~(d) The boundary of a property on which a cooperative housing unit is located shall not be within five hundred feet from the boundary of the property on which another cooperative housing unit is located, but the city manager may permit two cooperative housing units to be located closer than five hundred feet apart if they are separated by a physical barrier, including, without limitation, an arterial, a collector, a commercial district or a topographic feature that avoids the need for dispersal. The planning department shall maintain a map showing the locations of all cooperative housing units in the city.~~

~~(e) Any Not-for-Profit Permanently Affordable Cooperative shall be permanently affordable. Affordability shall be measured by individual households. That is, a household consisting either of an individual or a family. Rents charged must be affordable to households earning no more than sixty percent of the area median income.~~

~~(f) A cooperative license may be issued to any group of natural persons or organization formed under Colorado law. If the applicant is an organization, all owners must be natural persons.~~

~~(g) No rental cooperative shall be located in a dwelling unit with less than two thousand square feet of habitable space nor in any dwelling unit that within five years prior to the application was modified to have two thousand square feet or more of habitable space.~~

~~(h) No cooperative shall be located in an agricultural, industrial or public zone. Cooperatives shall be permitted in all other zone districts.~~

~~(i) No person under twenty-one years of age may own an interest in a cooperative, in real property on which a cooperative is located or in an organization owning real property on which a cooperative is located.~~

~~(j) Any cooperative in which any person resides in return for valuable compensation shall be subject to the rental licensing provisions included in Section 10-3-2, "Rental License Required Before Occupancy and License Exemptions," B.R.C. 1981. The exceptions to the rental licensing requirements that are set forth in Section 10-3-2(b) shall not apply to any dwelling unit licensed pursuant to this chapter.~~

~~(k) No dwelling unit licensed pursuant to this chapter shall be licensed as or used as a short-term rental.~~

~~(l) Any attached accessory dwelling unit or detached accessory dwelling unit to a dwelling unit that is licensed pursuant to this chapter shall be part of the licensed cooperative housing unit and subject to the standards of this chapter. The occupants of the dwelling unit and accessory unit shall all be members of the cooperative. While such units are licensed as a cooperative housing unit under this chapter, neither the principal dwelling unit nor the accessory dwelling unit shall be required to be owner-occupied as would~~

~~otherwise be required under Subparagraph 9-6-3(n)(1)(A)(iv), "Owner-Occupied," B.R.C. 1981.~~

~~10-11-4. License Application Procedure for Cooperative Housing Licenses.~~

~~(a) Only a Legitimate Cooperative may be an applicant for a cooperative housing license. A licensed cooperative may operate only with the written consent of the property owner, unless the cooperative is the owner.~~

~~(b) Every applicant for cooperative housing license shall submit the following:~~

~~(1) A written application for a license to the city, on official city forms provided for that purpose including:~~

~~(A) A housing inspector's certification of baseline inspection dated within twelve months before the application. Each licensee shall submit evidence of a renewal inspection every two years. The applicant shall make a copy of the inspection form available to city staff and residents of inspected units within fourteen days of a request;~~

~~(B) A report on the condition and location of all smoke and carbon monoxide alarms required by Chapter 10-2, "Property Maintenance Code," B.R.C. 1981, made and verified by the applicant. Each applicant shall submit a verification under this subsection every two years;~~

~~(C) A trash removal plan meeting the requirements of Section 6-3-3(b), B.R.C. 1981, made and verified by the applicant;~~

~~(D) A parking management plan meeting the requirements of Section 10-11-11, B.R.C. 1981, made and verified by the applicant;~~

~~(E) Evidence establishing compliance with Section 10-11-14 "Legitimate Cooperatives," B.R.C. 1981. The city manager shall not issue a cooperative housing license unless the applicant can be certified as meeting the criteria set forth in Section 10-11-14. Each licensee shall submit evidence of compliance with Section 10-11-14 every two years; and~~

~~(F) A list of all persons who have any ownership interest in any entity to be licensed.~~

~~(2) All applications shall be submitted at least thirty days prior to occupancy, provided, however, that any applicant that can demonstrate operation in the same dwelling unit as a legitimate cooperative on December 6, 2016 may submit an application while in occupation of that dwelling unit.~~

~~(c) Pay all license fees prescribed by Section 4-20-69, "Cooperative Housing Fee," B.R.C. 1981, at the time of submitting the license application.~~

~~(d) Any licensee shall provide the city manager with a report of any changes in the information required by paragraph (b)(1) above within thirty days of such change.~~

~~(e) The city manager may issue a conditional approval for any group that has met the requirements of Subsections (a), (b)(1)(E), (b)(1)(F).~~

(f) Within thirty days after initial occupancy, the licensee shall provide to the city manager a certification that the applicant has provided to a resident of each dwelling on the block face contact information for the applicant and the organization responsible for certifying the applicant. Provided, however, that no notice shall be required to any dwelling unit more than six hundred feet from the licensed cooperative.

(g) A plan showing legal bedroom spaces sufficient to accommodate the number of residents requested in the license application.

10-11-5. License Renewal Procedure for Cooperative Housing Units.

Every licensee of a cooperative housing unit shall follow the procedures in this section when renewing an unexpired license:

(a) Pay all license fees prescribed by Section 4-20-69, "Cooperative Housing Fee," B.R.C. 1981, before the expiration of the existing license.

(b) Submit to the city manager, on forms provided by the manager:

(1) A housing inspector's certification of renewal inspection within twelve months before application. The applicant shall make a copy of the inspection form available to city staff and residents of inspected units within fourteen days of a request;

(2) A report on the condition and location of all smoke and carbon monoxide alarms required by Chapter 10-2, "Property Maintenance Code," B.R.C. 1981, made and verified by the operator; and

(3) A trash removal plan meeting the requirements of Subsection 6-3-3(b), B.R.C. 1981, made and verified by the operator.

(4) A parking management plan meeting the requirements of Section 10-11-11, B.R.C. 1981, made and verified by the applicant.

(c) Take all reasonable steps to notify in advance all residents of the property of the date and time of the inspection. The operator shall be present and accompany the inspector throughout the inspection, unlocking and opening doors as required.

10-11-6. Temporary License.

If the inspection shows that there are violations of Chapter 10-2, "Property Maintenance Code," B.R.C. 1981, in the building, and the applicant cannot correct the deficiencies before the housing is to be occupied (in the case of a new cooperative housing unit) or the existing license expires (in the case of a renewal), the applicant may apply, on forms specified by the city manager, for a temporary license. If the manager finds, based on the number and severity of violations, that such a temporary license would not create or continue an imminent health or safety hazard to the public or the occupants, the manager may issue a temporary license. The manager shall specify the duration of the temporary license, for a period reasonably necessary to make the needed repairs and changes. Upon receipt of an additional certificate of inspection showing correction of the deficiencies, and an additional housing license fee, the manager shall issue the cooperative housing license.

10-11-7. License Appeals.

~~Any applicant denied a temporary license, or aggrieved by the period of time allowed for correction, may appeal the denial or the time for correction, or both, as provided in Section 10-2-2, Section 111 "Means of Appeal," B.R.C. 1981. As to an appeal of the time reasonably required to correct a violation, the board shall either affirm the city manager's originally prescribed time or grant a longer time to correct the alleged violation.~~

~~10-11-8. Time of License Expiration.~~

~~Every rental license expires upon the earliest of the following dates:~~

~~(a) The expiration date on the license unless temporary authority is allowed under Section 10-11-6, "Temporary License," B.R.C. 1981, of this chapter;~~

~~(b) The effective date of any order or notice to vacate the property issued under any provision of law;~~

~~(c) The expiration of the temporary certificate of occupancy for the property if a permanent certificate of occupancy has not been issued; or~~

~~(d) The revocation of the certificate of occupancy for the property.~~

~~10-11-9. License Fees.~~

~~Applicants for any cooperative housing license, and applicants renewing an existing cooperative housing license, shall pay the license fees prescribed by Section 4-20-69, "Cooperative Housing Fee," B.R.C. 1981, upon submission of any license application.~~

~~10-11-10. Availability of License.~~

~~No person who holds a cooperative housing license shall fail to make the license available to anyone within seventy-two hours of receiving a request. Posting of a cooperative housing license at the property is not required.~~

~~10-11-11. Parking Management Plan Required.~~

~~Each applicant for a cooperative housing license shall prepare a parking management plan. Approval of any such plan shall be a condition of issuance of any cooperative housing license. The plan shall limit the number of automobiles to be parked in the public right-of-way to three. If the cooperative housing unit is located in a Neighborhood EcoPass district, the plan shall include a requirement that each resident who licensed to drive, acquire an EcoPass.~~

~~10-11-12. Compatibility with Neighborhoods.~~

~~Each cooperative shall at all times maintain compatibility with the neighborhood in which the cooperative is located. The licensee shall take all reasonable steps to reduce excessive parking on the public right of way and noise, trash and weeds on the property. A cooperative may be considered incompatible with the neighborhood if the city manager receives multiple complaints relating to parking on the public right of way, noise, trash or weeds in any twelve-month period. Complaints from a single person shall not be sufficient to cause a property to be incompatible with the neighborhood. Prior to making any determination that a cooperative is not compatible with the neighborhood, the city manager shall provide written notice to the licensee and encourage the licensee to address the complaints with the residents of the neighborhood.~~

~~10-11-13. Property Rights for Equity Cooperatives.~~

~~Cooperatives that are licensed pursuant to this chapter will have the following status under Title 9, "Land Use Code," B.R.C. 1981:~~

~~(a) Equity Cooperatives. Any licensed not-for-profit permanently affordable cooperative or private equity cooperative is considered a use of land for the purposes of Chapter 9-6, "Uses of Land," B.R.C. 1981. If the city changes its land use regulations, such cooperatives may continue as non-conforming uses under the requirements in Section 9-10-3, "Changes to Nonstandard Buildings, Structures, and Lots and Nonconforming Uses," B.R.C. 1981, provided that all of the requirement of the Boulder Revised code continue to be met.~~

~~(b) Rental Cooperatives. Any licensed rental cooperative is considered a dwelling unit purposes of Chapter 9-6, "Uses of Land," B.R.C. 1981 and not a use of land. Upon the abandonment, expiration, or revocation of such license, the property will continue to be considered a dwelling unit.~~

~~10-11-14. Legitimate Cooperatives.~~

~~(a) All applicants for cooperative housing licenses shall demonstrate as part of the licensing process that the community to be formed will be a legitimate cooperative. A legitimate cooperative is a group of individuals or an organization formed under Colorado law that, in addition to any other criteria adopted by the city manager, has the following:~~

~~(1) a documented governance structure;~~

~~(2) a list of the number of adults and dependents;~~

~~(3) a dedicated bank account; and~~

~~(4) bylaws that provide for the following:~~

~~(A) provisions prohibiting unlawful discrimination or harassment;~~

~~(B) a provision requiring regular meetings of all members;~~

~~(C) a decision-making structure;~~

~~(D) provisions for discipline or discharge of members;~~

~~(E) provisions for sharing of resources;~~

~~(F) provisions for selection of new members; and~~

~~(G) provisions for sharing information about the dedicated bank account.~~

~~(b) The city manager shall designate one or more Expert Cooperative Housing Organizations with ninety days after final adoption of this ordinance. An applicant shall seek training and certification by an Expert Cooperative Housing Organization. An applicant shall submit evidence of such training and certification as part of an application for a cooperative housing license.~~

~~10-11-15. City Manager May Order Premises Vacated.~~

~~(a) Whenever the city manager determines that any cooperative housing unit is in violation of this chapter or of Chapter 10-2, "Property Maintenance Code," B.R.C. 1981, and has caused a summons and complaint requiring the licensee to appear in municipal court to answer the charge of violation to issue, and the summons cannot be served upon the~~

~~licensee despite reasonable efforts to do so, or, having been served, the licensee has failed to appear in the municipal court to answer the charges or at any other stage in the proceedings, or, having been convicted or entered a plea of guilty or no contest, the licensee has failed to satisfy the judgment of the court or any condition of a deferred judgment, then the city manager may, after thirty days' notice and an opportunity for a hearing to the residents and the licensee, require that the premises be vacated and not be reoccupied until all of the requirements of the Property Maintenance Code and the cooperative housing code have been satisfied and a cooperative housing license is in effect. No person shall occupy any cooperative housing unit after receiving actual or constructive notice that the premises have been vacated under this section.~~

~~(b) Any notice required by this section to be given to a licensee is sufficient if sent by first class or certified mail to the address of the last known owner of the property as shown on the records of the Boulder County Assessor as of the date of mailing. Any notice to a resident required by this section is sufficient if sent by first class or certified mail to or delivered to any occupant at the address of the premises and directed to "All Residents."~~

~~(c) The remedy provided in this section is cumulative and is in addition to any other action the city manager is authorized to take.~~

~~10-11-16. Administrative Remedy.~~

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

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

~~(A) For the first violation of the provision, $150;~~

~~(B) For the second violation of the same provision, $300; and~~

~~(C) For the third violation of the same provision, $1,000;~~

~~(2) Revoke the cooperative housing license; and~~

~~(3) Issue any order reasonably calculated to ensure compliance with this chapter and Chapter 10-2, "Property Maintenance Code," B.R.C. 1981.~~

~~(b) If notice is given to the city manager by the licensee at least forty-eight hours before the time and date set forth in the notice of hearing on any violation, other than a violation of Section 10-11-12 "Compatibility with Neighborhoods," B.R.C. 1981, that the violation has been corrected, the manager will re-inspect the cooperative housing unit. If the manager finds that the violation has been corrected, the manager may cancel the hearing.~~

~~(c) If notice is given to the city manager by the licensee at least forty-eight hours before the time and date set forth in the notice of hearing on any violation of Section 10-11-12 "Compatibility with Neighborhoods," B.R.C. 1981, that the licensee has scheduled a community mediation with concerned neighbors, the manager may continue the hearing until the manager receives a report regarding the conclusion of the mediation. If after reviewing a community mediation report, if the city manager is satisfied that the~~

~~cooperative housing unit meets the requirements of Section 10-11-12 "Compatibility with Neighborhoods," B.R.C. 1981, the city manager may dismiss any pending complaint.~~

~~(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, provided however, the city manager shall not seek criminal penalties for any violation of this chapter.~~

~~(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.~~

~~10-11-17. Authority to Issue Rules.~~

~~The city manager may adopt reasonable rules to implement this chapter.~~

~~10-11-18. Reporting.~~

~~The city manager shall prepare an annual report to the city council regarding the implementation and enforcement of this chapter. Council will consider the impacts of this ordinance and make changes as necessary.~~

Section 61. Section 10-12-2, “Definitions,” B.R.C. 1981, is amended to read as follows:

10-12-2. - Definitions.

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

…

Mobile home means a transportable, ~~single-family~~detached dwelling unit, suitable for year-round occupancy that contains the same water supply, waste disposal and electrical conveniences as immobile housing, that has no foundation other than wheels or removable jacks for conveyance on highways, and that may be transported to a site as one or more modules, but the term does not include "travel trailers," "campers," "camper buses," or "motor homes," or modular homes designed to be placed on a foundation.

…

Section 62. Section 11-1-13, “When Connections With Water Mains Are Required,” B.R.C. 1981, is amended to read as follows:

11-1-13. When Connections With Water Mains Are Required.

(a) All property located in the city or annexed to the city that is open to the public or used for commercial or industrial purposes or uses (other than ~~single-family~~detached dwelling units ~~residential~~) and that requires a potable water supply for human consumption shall be connected with the water utility of the city. The owner of the property, the owner's agent or other person having charge of such property or receiving the rent for it, or a tenant of the property shall pay all applicable fees and charges when the city manager notifies such person that connection is required. The manager shall serve such notice upon the owner of such property by registered mail to the last address of the owner on the records of the Boulder County Assessor and upon the person in possession of such property by mail to the property address. Connection to the water utility is immediately required only where there exists a city water main abutting or adjacent to any portion of the boundaries of the property upon which there is an existing structure or a proposed structure requiring the use of potable water. A private water supply may be used for irrigation on property connected to the water utility, but no person in possession of such property shall allow the water from the private supply to be used for human consumption or to be cross connected with a line containing water from the water utility. Nothing in this subsection shall be deemed to require water connection by properties in the portion of Moore's ~~Subdivision~~Subdivision, annexed on July 11, ~~1978~~1978, or specifically exempted by any written agreement with the city.

…

Section 63. Section 11-1-15, "Out of City Water Service," B.R.C. 1981, is amended to read as follows:

11-1-15. Out of City Water Service.

(a) Out of city water service permits are intended for properties that may be eligible for annexation in the near future but are not presently eligible. The purpose of this section is to outline the requirements precedent to the receipt of out of city utility services. A person desiring to make connection to out of city services will be required to make such land dedication and pay such fees as would be anticipated from a similarly situated property that would annex into the city.

(b) Any person outside of the city limits desiring to make a connection or repair to or disconnect from the water utility or to use water therefrom shall apply to the city manager for a revocable out of city water permit, which may be issued after approval of the city manager if the manager finds that the application meets the following conditions:

…

(5) The service is to be extended to a structure, which contains a legal use, that existed on the effective date of this chapter or to a platted ~~single-family~~ lot with a detached dwelling unit existing on the effective date of this chapter;

…

Section 64. Section 11-2-10, "Out of City Sewer Service," B.R.C. 1981, is amended to read as follows:

11-2-10. Out of City Sewer Service.

(a) Out of city sewer service permits are intended for properties that may be eligible for annexation in the near future but are not presently eligible. The purpose of this section is to outline the requirements precedent to the receipt of out of city utility services. A person desiring to make connection to out of city services will be required to make such land dedication and pay such fees as would be anticipated from a similarly situated property that would annex into the City.

(b) Any person outside of the city limits desiring to make a connection to the wastewater utility shall apply to the city manager for a revocable out of city wastewater permit, which may be issued after approval of the city manager if the manager finds that the application meets the following conditions:

…

(5) The service is to be extended to a structure, which contains a legal use, that existed on the effective date of this chapter or to a platted ~~single-family~~ lot with a detached dwelling unit existing on the effective date of this chapter;

…

Section 65. Section 11-5-5, "Discharges to the Stormwater Utility System," B.R.C. 1981, is amended to read as follows:

11-5-5. Discharges to the Stormwater Utility System.

(a) Illicit Discharges Prohibited: No user or other person shall discharge any illicit discharge into or upon the stormwater utility system, any public highway, street, sidewalk, alley, land, public place, stream, ditch or other watercourse or into any cesspool, storm or private sewer or natural water outlet, except as specifically provided in this chapter and in accordance with the MS4 permit.

…

(d) Exemptions: The following discharges are exempt from the requirements established by this chapter:

(1) Landscape irrigation and lawn watering associated with ~~single-family~~ detached dwelling units or duplexes ~~development~~,

…

Section 66. Section 12-1-2, "Discrimination in Housing Prohibited," B.R.C. 1981, is amended to read as follows:

12-1-2. - Discrimination in Housing Prohibited.[4]

…

(b) The provisions of subsection (a) of this section do not apply to prohibit:

…

(4) Compliance with any provisions of ~~Section 9-8-5, "Occupancy of Dwelling Units," or~~ Chapter 10-2, "Property Maintenance Code," B.R.C. 1981, concerning permitted occupancy of dwelling units.

…

Section 67. If any section, paragraph, clause, or provision of this ordinance shall for any reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining provisions of this ordinance.

Section 68. 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 69. The city council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 6th day of February 2025.

_____
Aaron Brockett,
Mayor

Attest:

_____
Elesha Johnson,
City Clerk

READ ON SECOND READING, PASSED AND ADOPTED this 6th day of March 2025.

_____
Aaron Brockett,
Mayor

Attest:

_____
Elesha Johnson,
City Clerk

COVER SHEET

MEETING DATE
March 6, 2025

AGENDA ITEM
"Nod of three" to proceed with additional research regarding incentives/programs for housing ownership

PRIMARY STAFF CONTACT
NA

ATTACHMENTS:

Description

No Attachments Available

COVER SHEET

MEETING DATE
March 6, 2025

INFORMATION ITEM
Update on City Participation at the Public Utilities Commission

PRIMARY STAFF CONTACT
Matt Lehrman, Policy Advisor Senior

ATTACHMENTS:

Description

- **Information Item A - Update on City Participation at the Public Utilities Commission**

INFORMATION ITEM
MEMORANDUM

To: Mayor and Members of Council

From: Nuria Rivera-Vandermyde, City Manager
Pam Davis, Assistant City Manager
Jonathan Koehn, Director of Climate Initiatives
Carolyn Elam, Sustainability Senior Manager, Energy Systems
Matt Lehrman, Senior Policy Advisor, Energy Systems
Veronique Van Gheem, Assistant City Attorney

Date: March 6, 2025

Subject: Information Item: Update on City Participation at the Public Utilities Commission

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EXECUTIVE SUMMARY

The City of Boulder participates in multiple venues seeking to transform state policy in support of local action. This includes the General Assembly, the Public Utilities Commission ("PUC"), the Air Quality Control Commission and others. The purpose of this information item is to provide City Council with an update on the city's participation at the PUC. The PUC regulates utilities and facilities, including Xcel Energy, so that the people of Colorado receive safe, reliable, and reasonably-priced services. The City of Boulder participates in PUC activities seeking to transform state policy in support of local action.

Several foundational documents and work teams guide the city's participation. The 2025 City of Boulder Policy Statement on Regional, State and Federal Issues serves as the guidepost to develop city policy positions. Related sections of the Policy Statement are shaped by key city plans including the Climate Action Plan (CAP). To advance the actions of the Policy Statement, the Department of Climate Initiatives works closely with other communities and entities such as the Colorado Communities for Climate Action (CC4CA)[1] on many legislative and regulatory efforts to build broad policy coalitions.

[1] CC4CA Policy Statement

Staff provides quarterly updates to council on PUC activities. The council information packet for the October 17, 2024, meeting described city action at the PUC in the third quarter of 2024.[2] This memo updates and builds on that information packet and describes additional activity during the fourth quarter of 2024 as well as January and February 2025.

Current proceedings before the PUC include proposed plans to:

- Invest up to $2 billion in wildfire mitigation over the next 3 years
- Add between 5 and 14 gigawatts of new electricity generation and achieve 92% renewable electricity by 2031
- Invest more than $5 billion in the electric distribution system by 2029 to improve reliability and prepare for building and transportation electrification.

This memo provides additional detail and highlights several ongoing and upcoming high visibility proceedings that are likely to draw community interest:

- Xcel Energy's Wildfire Mitigation Plan
- Time-of-Use Advice Letter
- Just Transition Solicitation
- Distribution System Plan
- Aggregated Virtual Power Plant
- Tariffed On-Bill Financing

Highlights of the successful outcomes from staff's advocacy in the previous quarter include:

- As an invited panelist, the city was able to provide input into methodologies for Xcel's future growth forecasting. Improved forecasting will better account for declining use of gas infrastructure and electric load growth.
- During the evidentiary hearing for the Time of Use proceeding, one of the PUC commissioners highlighted the city's filed testimony as the most aligned with his areas of concern. In line with Boulder's recommendation, the Commission also directed Xcel Energy to launch a rate comparison tool prior to the launch of new rates that compare the new time-of-use rates to flat rates so that customers can make an informed decision on which rate is right for them.
- Xcel successfully launched new clean heat rebates, effectively tripling the rebate available for residents seeking to adopt heat pumps.

BACKGROUND

The city participates in PUC proceedings focused on electricity and natural gas production and consumption, including rate design, resource planning and voluntary customer products. The city advocates for policies, products, programs and services that advance city organization and community priorities of affordability, safety, resilience, equity, transparency and emissions reduction.

[2] October 17, 2024 Memo to City Council: Update on City Participation at the Public Utilities Commission.

In most PUC proceedings, the city's participation is led by the Department of Climate Initiatives with support from other city departments with subject matter expertise on a specific topic (e.g., Transportation for streetlights or Community Vitality for economic development). Participation at the PUC may take the form of formal intervention as a party (represented by the City Attorney's Office), submission of written or oral comments (without formal intervention) and participation in stakeholder workshops. The city contributes data and analysis based on the city's operational experience, Climate Action Plan[3] and the Policy Statement on Regional, State and Federal Issues.[4] Climate Initiatives staff members routinely engage community members, organizations and working groups to inform the city's participation in a specific proceeding.

Boulder has long recognized the importance of the PUC's role in driving broader systems changes in Colorado's electricity and natural gas sector. The actions taken by the PUC have far reaching implications in the ability of local communities to reach their own energy, climate and equity goals. Since 2016, the city has participated in more than 50 proceedings at the PUC as well as numerous stakeholder workshops to inform the development of future products and services. The city's PUC intervention enables Boulder to take direct action to support fair and equitable rates, accelerate emissions reduction through resource planning, and inform new voluntary renewable electricity, demand-side management, transportation electrification, clean heat programs and wildfire mitigation plan.

RECENT ACTION

Since the last council update, the city has participated in several proceedings at the PUC highlighted below. These proceedings will have significant impact on the city organization and community priorities, and the city is taking an active advocacy role. This is an important period of time at the PUC with respect to Boulder's priorities; there are active proceedings focused on several core priorities of the Boulder community including wildfire mitigation, reliability and resiliency, grid emissions reduction and supportive programming. A summary of the various proceedings is listed in Table 1. Below are brief summaries of the major actions:

- **Wildfire Mitigation Plan (WMP):** Xcel Energy submitted its second Wildfire Mitigation Plan on June 27, 2024. The city was admitted as an intervenor August 12. On February 14, Boulder submitted answer testimony from nine witnesses from Climate Initiatives, Forestry, Fire and Rescue, Utilities, Community Engagement and the Office of Disaster Management
    - A summary of the witnesses and recommendations, with links to download the answer testimony, is presented later in this memo.
    - The plan focuses on system resilience investments, improving situational awareness of high-risk fire scenarios, improving operations and maintenance to mitigate fire risk, and additional dedicated customer service support and communications. The WMP includes proposed investments in undergrounding, vegetation management, and back-up power for residential customers with medical needs. Xcel also proposes specific criteria for implementing public safety

[3] https://boulder.novusagenda.com/agendapublic/CoverSheet.aspx?ItemID=6083&MeetingID=911
[4] City of Boulder 2025 Policy Statement on Regional, State and Federal Issues

power shutoffs and additional programs intended to mitigate the risk of wildfire caused by electric transmission and distribution infrastructure. Additional background information is available in the October 2024 Council IP.

- **Time-of-Use Rates Advice Letter**: The time-of-use advice letter proposes to change the time when on-peak energy charges are in place. The Commission deliberated on February 19 and approved a year-round on-peak period of 5 p.m. to 9 p.m. on non-holiday weekdays. The rates will become effective in October 2025. Customers have the ability to opt-out to a flat, non-time of use rate plan if desired. The Commission also required development of a rate comparison tool that will be available prior to the launch of the new rates to enable customers to compare the time-of-use rates to flat rates. The Commission also approved changes to how demand charges are assessed for commercial and industrial customers, including several city facilities. Staff is currently analyzing the impact of the proposed changes to residential, commercial and industrial customers, including city facilities.
- **Just Transition Solicitation (JTS):** The JTS assesses the impacts on communities affected by the accelerated retirement of a coal plant. This includes Hayden, Pawnee (near Brush) and Comanche 3, the third and final coal plant to be retired in Pueblo. This JTS focuses on replacing the generation from Comanche 3, although the new generation may not necessarily be built in Pueblo. The city intervened in the JTS through its participation in Colorado Communities for Climate Action.
    - Xcel Energy was required to submit a Just Transition Solicitation plan no later than June 1, 2024. As presented by Xcel at council's February 1, 2024 meeting, Xcel intended to submit a proposal related to Boulder's Zero Emissions Communities program that would enable interested customers and communities to make additional investments in zero emissions generation to help bridge the emissions gap between Xcel's 2030 emissions and zero emissions. In May, Xcel notified the city and subsequently the Public Utilities Commission that the Just Transition Solicitation filing would be delayed until August 1, 2024. City staff notified council of this change via Hotline email on June 12, 2024. On July 12, Xcel petitioned the Public Utilities Commission to delay the application again until October 15, 2024. The delay was requested because of challenges with constructing and interconnecting new generation selected in the 2021 Electric Resource Plan that then introduce additional complexity in finalizing modeling and other details in the Just Transition Solicitation application. Staff will continue to update council as this effort evolves.
- **Distribution System Plan (DSP):**
    - The purpose of the DSP is to present to the Commission and stakeholders a detailed discussion and transparent view into how Public Service plans its distribution system to safely, reliably and cost effectively deliver electric service to customers while addressing the new challenges. This proceeding offers the opportunity to advance community priorities regarding distribution investments, such as community microgrids, that can enhance reliability and resilience.

- **Aggregated Virtual Power Plant (VPP):**
    - The aggregated virtual power plant proceeding is a proposal to create a voluntary program that offers aggregators of distributed energy resources performance-based compensation for capacity obligated to support system needs when requested by Public Service. The proposal is to solicit 125 MW of aggregated VPP resources over five years with the goal of reducing generation, transmission and distribution costs and to use distributed resources as one tool to achieve zero emissions electricity. This proceeding is separate from, but may have overlap with, the virtual power plant partnership project with Xcel Energy.[5]
- **Tariffed On-Bill Financing**
    - The purpose of the on-bill financing program is to offer a new tariff to assist customers in undertaking certain permanent energy efficiency and beneficial electrification upgrades. The program is intended to reduce barriers to investment by expanding access to low-cost financing, the absence of which may prevent a customer from making such upgrades. The program will use third-party funding with debt repayment reflected on a customer's electric bill with debt assigned to the electric meter premise that will transfer to new customers when a new tenant moves in, or the property is sold.

COMMUNITY ENGAGEMENT

Boulder's engagement at the Public Utilities Commission relies on the city's Policy Statement on Regional, State and Federal Issues. In addition, staff seeks feedback through routine engagement with the community. This engagement takes the form of office hours, meetings with community groups and subject matter experts, and the city's community connector program.

SUMMARY

Staff recognizes the importance of keeping City Council and the community informed on the various PUC-related activities. Climate Initiatives will continue to provide regular updates to council on the city's involvement in PUC activities. The update will describe current and anticipated proceedings and the relevance to the interests of the city organization and the Boulder community. The table below includes proceedings in which the city is currently participating as well as anticipated proceedings for 2025. The column "City Status" includes links to the city's testimony and statements of position in each proceeding.

[5] https://bouldercolorado.gov/news/step-toward-zero-emissions-virtual-power-plant

Proceeding	Number	City Status / Results	Description	Relevance to Boulder Goals[6]
Wildfire Mitigation Plan	24A-0296E	The application was filed June 27. The city was admitted as an intervenor on August 12. Answer testimony was filed on February 14. Cross-answer testimony is due March 21. The hearing is scheduled for May 5-15. A Commission decision is anticipated in late summer. A summary of the witnesses and recommendations, with links to download the answer testimony, is presented below.	The wildfire mitigation plan describes the equipment inspection, targeted undergrounding, vegetation management, public safety power shut-off, residential resilience and other initiatives, including community engagement, that Xcel Energy undertakes in the wildland urban interface intended to mitigate risks of wildfire.	Resilience, equity, affordability, safety, wildfire, city operations

[6] The keywords used in the column "Relevance to Boulder Goals" are intended to identify the major topics addressed in the proceeding that are included in Boulder's Climate Action Plan or other city priorities. For example, "emissions reduction" means that the decision in the case may affect Boulder's emissions reduction work, "local generation" means that the decision will affect rooftop solar, and "streetlights" means the decision may affect the rates Boulder pays for the operation of streetlights.

Proceeding	Number	City Status / Results	Description	Relevance to Boulder Goals[6]
Time-of-Use Advice Letter	24AL-0377E	The advice letter was filed on September 3. The city submitted answer testimony on November 25, cross-answer testimony on December 23, participated in the hearing on January 13-14 and submitted a statement of position on January 31. The Commission deliberated on February 19 and approved a year-round on-peak period of 5 p.m. to 9 p.m. on non-holiday weekdays, with the ability to opt-out to a flat rate. The new rates will become effective in October 2025. • Answer Testimony of Matthew Lehrman • Cross-Answer Testimony of Matthew Lehrman • City of Boulder Statement of Position	The time-of-use advice letter proposes to change the time when on-peak energy charges are in place. Staff is currently analyzing the impact of the proposed changes to residential, commercial and industrial customers, including city facilities.	Equity, affordability, emissions, city facilities

Proceeding	Number	City Status / Results	Description	Relevance to Boulder Goals[6]
Just Transition Solicitation		The City intervened as a member of Colorado Communities for Climate Action. Answer testimony is due April 18, cross answer testimony is due May 23, an evidentiary hearing is scheduled for June 10-24, statements of position are due July 14 and a hearing is anticipated in the fall.	The Just Transition Solicitation application will assess the transition impacts on communities affected by the accelerated retirement of a coal plant. This includes Hayden, Pawnee (near Brush) and Comanche 3 in Pueblo. With respect to Pueblo, Xcel Energy was required to submit a plan no later than June 1, 2024 to address the just transition for Comanche 3 and solicit generation and storage resources to replace the retiring coal plant. PSCo petitioned the PUC to delay the plan submission. The new resources do not need to be located in or near Pueblo. Consistent with other electric resource acquisition plans, staff intervened in this proceeding. Xcel Energy also filed information regarding a potential Zero Emissions Communities or 24/7 Carbon-Free Electricity voluntary product.	Equity, affordability, emissions reduction

Proceeding	Number	City Status / Results	Description	Relevance to Boulder Goals[6]
Distribution System Plan	24A-0547E	The city petitioned to intervene on January 16. Petitions have not yet been granted and as such, there is no procedural schedule.	The purpose of the DSP is to present to the Commission and stakeholders a "detailed discussion and transparent view into how Public Service plans its distribution system to safely, reliably and cost effectively deliver electric service to customers while addressing the new challenges."	Distribution system planning, distributed energy resources, resilience
Aggregated Virtual Power Plant	24A-0061E	The city intervened by the February 21 deadline. The Commission seeks feedback from interested parties on the advantages and disadvantages of combining this application with the distribution system plan application. The city supports combining the two applications given the overlapping goals of the two proceedings.	The aggregated virtual power plant proceeding is a proposal to create a voluntary program that offers aggregators of distributed energy resources performance-based compensation for capacity obligated to support system needs when requested by Public Service. The proposal is to solicit 125 MW of aggregated VPP resources over five years with the goal of reducing generation, transmission and distribution costs and to use distributed resources as one tool to achieve zero emissions electricity.	Distributed energy resources, emissions reduction, resilience

Proceeding	Number	City Status / Results	Description	Relevance to Boulder Goals[6]
Tariffed On-Bill Financing	25A-0036E	The city petitioned to intervene on February 7. Petitions have not yet been granted and as such, there is no procedural schedule.	The purpose of the on-bill financing program is to offer a new tariff to assist customers in undertaking certain permanent energy efficiency and beneficial electrification upgrades. The program is intended to reduce barriers to investment by expanding access to low-cost financing, the absence of which may prevent a customer from making such upgrades. The program will use third-party funding with debt repayment reflected on a customer's electric bill. The debt is assigned to the electric meter premise; in the event a customer closes an account and a new customer moves in, the debt becomes the responsibility of the new customer.	Equity, affordability, emissions reduction

In addition to these active proceedings, there are several anticipated proceedings with significant impact to community priorities. The table below briefly summarizes these proceedings.

Proceeding	Description	Anticipated Timeline
Equity Rulemaking	This rulemaking is in response to Senate Bill 21-272 that requires the Public Utilities Commission to promulgate rules requiring that the Commission "in all of its work, including its review of all filings and its determination of all adjudications, consider how best to provide equity, minimize impacts and prioritize benefits to disproportionately impacted communities and address historical inequities."	• Spring-Summer 2025
2026-2027 Renewable Energy Standard Plan	The 2026-2027 Renewable Energy Standard Plan (RES) includes voluntary programs to comply with the RES statute (e.g., Solar Rewards, CSG, RC, Battery Connect).	• Distributed energy resources, resilience, affordability.
2025 Gas Infrastructure Plan	This application will review new gas infrastructure projects (new business, capacity expansion, pipeline safety and integrity, non-pipes alternatives, system maps, stakeholder engagement, design day updates and peak demand, sensitivity forecasts, project life, constructions and financing information, cost estimation information, project-specific mapping, customer-specific projects, project-specific emissions calculation, new business subject to alternative analysis, existing infrastructure investment reporting.)	• Natural gas, emissions reduction, resilience, affordability.

Summary of Answer Testimony Recommendations of the City of Boulder

Witness	***Recommendations***
Carolyn Elam, *Sustainability Senior Manager for Energy Systems* Download Testimony	• Prohibit Public Service from proactively fully de-energizing certain critical facilities that do not have backup and where temporary backup is infeasible or insufficient to mitigate outage-related hazards to public health and safety. • Require Public Service to restore power to high priority critical facilities expeditiously, with a target of 60 minutes or less, after hazardous conditions subside where that facility was included in a Public Safety Power Shutoffs (PSPS) or Enhanced Power Safety Settings (EPSS) event. • Require that Public Service establish a Recovery Fund to provide compensation to income-qualified residential and small business customers who experience financial losses due to PSPS events.
Matthew Lehrman, *Senior Policy Advisor for Energy Systems* Download Testimony	• Tie success of the Wildfire Mitigation Plan (WMP) to reduction in PSPS and Wildfire Safety Operations (WSO) outages over time by requiring Public Service to track, report, and reduce the number of customers affected by PSPS and WSO outages in annual reports during the course of the WMP. • Implement a Notice of Public Rulemaking (NOPR) to create rules and procedures around PSPS events, including: (1) customer affected metrics, (2) reporting for increased transparency and oversight, (3) consideration of a statewide PSPS Dashboard, and (4) implementation of a PSPS citation program. • Adopt provisional standards for Public Service's PSPS in this proceeding, attached as Attachment MAL-3 to this testimony. • Reject the proposed Pano AI Cameras installed outside the Public Service territory. • Modify the proposed PSPS Resiliency Rebates as follows:

Witness	*Recommendations*
	○ Approve the battery energy storage system ("BESS") rebates. ○ Reject the vehicle-to-home ("V2H") rebates. • Modify PSPS Resilience Rebate ("PRR") to: (1) expand BESS eligibility to more customer categories, (2) automatically enroll participating customers in certain DSM and/or demand response programs, (3) approve rebates for home electric panel upgrades, and (4) develop one or more feeder-level microgrids for business districts. • Direct Public Service to increase engagement with local communities to consider expanding targeted undergrounding projects with any available funds.
Warren Wendling, P.E., *Expert in transmission and distribution* Download Testimony	• Approve the "Boulder Priority Projects" involving targeted undergrounding and reclosers on three feeders that face urgent threats. • Approve a reliability cost-benefit test of avoided customer outage minutes to prioritize system resiliency investments. • Reject the updated mapping of wildfire risk to focus on infrastructure and likely point of ignition, and not wildfire consequence. • Reject deployment of non-traditional sensors until additional evidence is presenting that they are a cost-effective alternative to sectionalizing.
Kathleen Alexander, *City Forestry Manager* Download Testimony	• Support the addition of four full-time equivalent Public Service employees focused on vegetation management, requiring that at least one employee's focus be on collaboration and planning with government departments. • Require that Public Service meet with municipal (or comparable) forestry departments both before and after planned vegetation management to collaborate and address specified areas of concern. • Require Public Service to provide appropriate debris removal.

Witness	***Recommendations***
Christopher Douville, *Deputy Director of Utilities* Download Testimony	• Responsive to Commission request for emergency personnel perspective. • Require Public Service to properly identify and maintain records for critical facilities customers. • If the Commission approves a PSPS citation program in a future rulemaking, require that one of the criteria subject to penalty is failure to comply with dual service facility or similar electrical service agreements for critical facilities. • Re-start electric service to critical facilities expeditiously, with a target of 60 minutes or less after the conclusion of WSO, EPSS and PSPS events. • Direct Public Service to remediate the wildfire risk associated with the feeder from the Niwot substation that serves the Water Resource Recovery Facility ("WRRF").

Michael Chard, *Director of the Joint City of Boulder and Boulder County Office of Disaster Management*
 	
Download Testimony
	• Responsive to Commission request for emergency personnel perspective.
	
	• Direct the need for better integrating with local emergency management offices in communities impacted by PSPS events, before, during and after such events.
	
	• Approve the PSPS Communications Plan with the following modifications:
	
	  ○ The notification timeline should be mandatory.
	
	  ○ Require affirmative communication with emergency managers and operators of critical infrastructure prior to PSPS.
	
	• Adopt the tiered structure for critical facilities.
	
	• Adopt rules in a future rulemaking to specify operational integration and reporting requirements to ensure adequate support is provided to local offices of emergency management during PSPS events.

Witness	***Recommendations***
Emily Sandoval, *Community Engagement Senior Project Manager* Download Testimony	• Improve the PSPS Communications Plan, including more frequent, more accessible and optimized customer communications. • Identifies opportunities for more participatory and trauma-informed outreach and engagement. • Require Public Service to allow individuals other than those with MyAccount to opt in to notifications regarding PSPS events and other WSO outages.
Brian Oliver, *Wildland Fire Division Chief for Boulder Fire Rescue* Download Testimony	• Responsive to Commission request for emergency personnel perspective. • Suggests that Wildfire Command Center employees will benefit from guidance and best practices prepared by local first responder personnel on wildfire mitigation, such as that prepared by Boulder Fire Rescue. • Recommends that Public Service coordinate with local emergency response personnel before, during and after PSPS or other outage events to maximize emergency resources and minimize risk of damage to the community.
Danielle McNutt, *Community Risk Reduction Senior Program Manager for City of Boulder Fire Rescue* Download Testimony	• Responsive to Commission request for emergency personnel perspective. • Identifies opportunities for Public Service to collaborate with local fire departments such as Boulder's to strengthen wildfire resilience more effectively and efficiently, including (1) data-sharing, (2) community and outreach efforts, and (3) coordinated home hardening efforts.

COVER SHEET

MEETING DATE
March 6, 2025

INFORMATION ITEM
2024 Annual Prairie Dog Update and 2025 Management Plans

PRIMARY STAFF CONTACT
Victoria Poulton

ATTACHMENTS:

Description

- **Information Item B: 2024 Annual OSMP Prairie Dog Update and 2025 Management Plans**

INFORMATION ITEM
MEMORANDUM

To: Mayor and Members of Council

From: Nuria Rivera-Vandermyde, City Manager
Dan Burke, Director, Open Space and Mountain Parks
Heather Swanson, Deputy Director, Resource and Stewardship
Andy Pelster, Agriculture and Water Stewardship Sr. Manager
Victoria Poulton, Prairie Dog Ecologist
Eric Fairlee, Agricultural Land Restoration Sr. Program Manager

Date: March 6, 2025

Subject: 2024 Annual OSMP Prairie Dog Update and 2025 Management Plans

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EXECUTIVE SUMMARY

Background: At their August 11, 2020, meeting, City Council approved the preferred alternative recommended by the Open Space Board of Trustees (OSBT) and staff for prairie dog management, agricultural land restoration, and soil health on irrigated agricultural land in the northern portion of the Open Space and Mountain Parks (OSMP) land system to, among other things, remove 140-240 acres of prairie dogs annually, with associated barrier construction and soil health restoration activities. In 2023, OSBT recommended, and City Council approved expansion of these management actions to cover all irrigated agricultural fields in the OSMP system, and to bring on staff and equipment so that lethal control could be done in-house. These directions added to the suite of prairie dog conservation efforts already undertaken by the department from past guidance including the council-approved Grassland Ecosystem Management Plan (2010) and recommendations of the Prairie Dog Working Group (2018).

Annual Meeting Summary: Staff held a public meeting on December 10, 2024, to provide updates to the community on OSMP's 2024 prairie dog management actions including implementation of the prairie dog working group recommendations, prairie dog population status tracking on OSMP, prairie dog relocations and removals, and agricultural restoration. Staff also presented removal and management plans for 2025. OSMP provided notice about the upcoming meeting by emailing the prairie dog stakeholder list, posting a notice on the webpage, and by sending a Field Notes/Natural Selections email. The meeting was held in person at the Hub Community Rooms, with an option to attend online. At the meeting, OSMP staff presented

information about work completed in 2024 and planned for 2025, answered questions from the in-person and online audience, and informed participants how they could continue to offer comments or questions after the meeting. Community members not able to attend the meeting had the option of watching a recording of the meeting that remains posted on the Prairie Dog Annual Meeting webpage. For several weeks after the meeting, community members could email comments and questions on 2024 management of prairie dogs and 2025 management plans. All items related to the meeting can be viewed on the OSMP Annual Prairie Dog Meeting webpage.

Prairie dog management and agricultural land restoration accomplishments in 2024:
Prairie dog management and agricultural land restoration accomplishments by OSMP staff in 2024 included:

- Distribution of two doses of sylvatic plague vaccine on 250 acres in the Southern Grasslands, and one dose at the relocation take site.
- Relocation of 185 prairie dogs from approximately 17 acres of the Anderson property to the Pueblo Chemical Depot.
- Removal from irrigated agricultural properties using lethal control with initial treatments on 187 acres on Anderson, Andrus, Autrey, Bixler, Boulder Valley Ranch, Deluca, Ft. Chambers/Poor Farm, Hartnagle, and Warner, and follow-up on 109 acres of prairie dog colonies.
- Removal of prairie dogs from the Mesa Sand and Gravel exclusion zone, which was established as part of the relocations permitting process in 2019 and 2020.
- Staff were hired and equipment purchased to bring ability to conduct lethal control in-house.
- Construction of 3,840 feet of chicken wire prairie dog exclusion barrier and 1,830 feet of hard metal barrier at relocation and removal sites.
- Agricultural and land restoration work was initiated or on-going on 27 different prairie dog relocation and removal sites from 2020-2024.
- Continuing support for a collaborative learning project investigating ways to grow crops and graze livestock on an OSMP parcel that is inhabited by prairie dogs.
- Internal conversations were initiated in OSMP about black-footed ferret reintroductions since Boulder County and Rocky Flats National Wildlife Refuge have stated they have a goal to re-introduce the endangered species to the Southern Grasslands areas, and they are looking to partner with OSMP in the effort.
- Work was mostly completed on updating the prairie dog habitat suitability modeling on OSMP properties, with just a few data gaps to address in 2025.
- The pilot barrier cost share program was initiated, with an application period open during November 19-December 3, 2024 (awards will be distributed in late February-early March, 2025).
- Interaction with agencies, researchers, tenants, neighbors and the community to communicate about prairie dog management, hear concerns and provide recommendations or support for conflict minimization. OSMP staff provided data that contributed to an academic paper looking at the effect of prairie dog colonies on wildfire behavior.

Implementation Plans for 2025: Staff evaluated irrigated agricultural fields across the OSMP system to determine the highest priorities for management in 2025. The criteria to establish priority as presented in the council-approved preferred alternative in 2020 are:

- areas designated as removal and transition areas
- areas where the likelihood of effective removal, exclusion, and restoration are most likely to be successful
- areas leased by tenants that are most affected by prairie dog occupation
- areas that are currently unleased but can be restored to production
- areas where successful management will increase OSMP lease revenue
- areas where removal will have least impact to associated species
- areas with the highest degree of neighbor conflict
- areas that provide some degree of relief to the greatest number of tenants

In addition, some areas were included due to very small, recently established colonies where removal of prairie dogs now can reduce the likelihood of further impact to the irrigated field and need for much larger scale removal in the future.

Plans for 2025 management include the following:

- Removal by lethal control in the Boulder Valley Ranch properties (irrigated agricultural land only) and extensive follow-up control on past removal sites totaling 250-300 acres (See Table 1).
- Installation of barriers where necessary to prevent recolonization of properties following removal.
- Continued implementation of priority Prairie Dog Working Group recommendations.
    - Announce awards and administer the pilot cost-sharing program with neighbors for prairie dog barriers.
    - Distribution of sylvatic plague vaccine on 250 acres in the Southern Grassland Preserve and at any take sites for relocation as directed in the City's Plague Management Plan.
    - Wrap up work on the prairie dog habitat suitability model
    - Continue internal discussions and evaluation of the feasibility of future black-footed ferret reintroduction on City land.
- Maintenance and improvement of irrigation infrastructure on several properties including Boulder Valley Ranch, Steele, Autrey, Oasis, Bennett, Belgrove, Johnson South, and Stratton.
- Possibilities for removal by relocation will be determined later in the spring, dependent upon the Pueblo Chemical Depot accepting relocated prairie dogs again in 2025. If relocation is an option, the site will likely be one of the BVR fields scheduled for removals.
- Purchase of an additional pressurized exhaust rodent control (PERC) machine for expanded capacity for in-house removal of prairie dogs.
- Continuation of lease and work with Shared Learning Collaborative for agricultural management on the Minnetrista II property in the presence of prairie dogs.
- Restoration of agricultural properties after removal to encourage enhanced agricultural sustainability and soil health.
- Annual fall mapping of prairie dog occupation across OSMP properties.
- Monitoring for burrowing owl breeding in the Gunbarrel Hill area and other previously occupied areas as well as suitable habitat.

Table 1. Site details for planned prairie dog removal and restoration tasks in 2025.	
Project Site	**2025 Planned Tasks**
Anderson	Follow-up removal, additional irrigation ditch and fence improvements, additional noxious tree removal, burrow leveling, supplemental seeding
Autrey	Follow-up PERC, irrigation ditch work (TBD), burrow level, supplemental seeding
Axelson East	Follow-up PERC, burrow leveling, supplemental seeding
Axelson West	Follow-up PERC, burrow leveling, supplemental seeding
Bixler	Follow-up PERC
Boulder Valley Ranch	Initial PERC, follow-up PERC, irrigation, fence, gate improvements (TBD), burrow level, supplemental seeding, noxious weed management, keyline
Brewbaker	Follow-up PERC, burrow level, supplemental seeding
Campbell North	Follow-up PERC, burrow level, supplemental seeding
Cowles	Follow-up PERC, burrow leveling, supplemental seeding, spot noxious weed mowing
Deluca	Follow-up PERC, burrow level
Ditzel	Follow-up PERC, burrow level, supplemental seeding, noxious weed mowing
Gallagher	Follow-up PERC, burrow level, supplemental seeding, compost application (TBD), noxious weed mowing, keyline
Hartnagle	Follow-up PERC, Noxious weed management, planting beds and swale and berm irrigation system for future agricultural production, keyline
Warner	Follow-up PERC, Noxious weed management, planting beds and swale and berm irrigation system for future agricultural production, keyline
Hester	Follow-up PERC
IBM	Follow-up PERC, burrow level, spot seed as needed
Johnson North	Follow-up PERC, burrow level and seed as needed
Johnson South	Follow-up PERC, burrow level, irrigation and tailwater management, spot seeding as needed, noxious weed suppression, keyline
Lore and Ellison	Follow-up PERC, burrow leveling, spot seeding as needed
Lousberg	Follow-up PERC, burrow leveling, spot seeding as needed, keyline
Nu-West	Follow-up PERC, burrow leveling, spot seeding as needed, noxious weed suppression
Oasis	Follow-up perc, burrow leveling, spot seeding, irrigation and additional irrigation system improvements, noxious weed suppression, keyline
Straty/Cline	Follow-up PERC, burrow leveling, noxious weed suppression
Stratton	Follow-up PERC, burrow leveling, spot seeding cattle management
Teller – Farm and Bell	Follow-up PERC, burrow leveling

Community Feedback: Staff answered questions and responded to comments from meeting attendees. Community members also could submit questions and comments by email for several weeks after the meeting. Feedback received did not include suggestions related to specifics of 2025 plans, so staff plan to continue with plans for 2025 as presented at the public meeting. Some common themes from the comments include:

- concerns about prairie dog impacts to grasslands and burrow density
- invasive weeds in prairie dog colonies
- barrier design, maintenance, and effectiveness
- information about how the Habitat Suitability Model was updated
- Suggestion to do follow-up lethal control more quickly after initial removal
- comments from neighboring property owners with concerns about prairie dogs moving from OSMP land onto their private property and the resulting impacts
- Questions on how to access prairie dog mapping data
- how OSMP will respond if burrowing owls nest near the Vesper Trail again
- concerns about timely follow-up lethal control
- how prairie dogs are managed on OSMP trails
- OSMP collaboration with Boulder County and the Shared Learning Collaborative on Minnetrista and Canino
- Budget questions
- Suggestion to expand timeframe for lethal control to include pupping season when prairie dogs give birth and dependent young are in the burrow

FISCAL IMPACT

Anticipated expenditures for irrigated agricultural land restoration and prairie dog conservation in 2025 are approximately $550,000. This includes expenditures associated with the implementation of the prairie dog working group recommendations, all prairie dog removals including expansion of in-house removal capacity, barrier installations, and land restoration and soil health treatments where prairie dogs have been removed. These expenditures fall within the funds approved in the 2025 budget for prairie dog management on OSMP.

Anticipated 2025 Expenditures	**Total Amount**
PERC control (staff, contracted)	$100,000-$125,000
Barrier construction	$45,000-$110,000
Infrastructure (fence, gates, culverts, irrigation)	$100,000-$150,000
Restoration (Seeding, burrow leveling, noxious weeds, other)	$75,000-$100,000
Soil amendments	$30,000-$40,000
Additional PERC machine	$25,000
Other (supplies for PERC and staff)	$3,500
Relocation	TBD
Other Prairie Dog Working Group Tasks including barrier cost-sharing program	$90,000
TOTAL	$522,000-$590,000

Next Steps: Staff will finalize plans for removals and contract for installation of barriers and relocation in the spring. Lethal control initial and follow-up treatments will begin on planned

sites outside of the March 1 – May 31 prairie dog pupping season once barriers are completed and staff are hired and additional PERC equipment purchased. Exact timing will be determined in collaboration with lessees on the property. Relocation, if possible, will begin later in the summer (Pueblo Chemical Depot usually accepts prairie dogs during July through October). Restoration, agricultural infrastructure improvements, and soil health treatments on properties will occur this year for properties where prairie dogs were removed in 2024 and on the properties not fully restored from previous years' control efforts. Extensive follow-up prairie dog removal will be required on properties where prairie dogs were removed in 2020-2024.

Later in 2025, staff will once again hold an update meeting to provide the community with information on progress in 2025 as well as proposed planning for 2026.

COVER SHEET

MEETING DATE
March 6, 2025

AGENDA ITEM
11.18.24 WRAB Signed Minutes

PRIMARY STAFF CONTACT
Karen Sheridan, Board Secretary

ATTACHMENTS:

Description

- **11.18.24 WRAB Signed Minutes**

CITY OF BOULDER, COLORADO
BOARDS AND COMMISSIONS MEETING MINUTES

Name of Board / Commission: Water Resources Advisory Board

Date of Meeting: 18 November 2024

Contact Information for Person Preparing Minutes: Karen Sheridan, 303-441-3208

Board Members Present: John Berggren, Amy Broughton, Katie Bridges, Steve Maxwell

Staff Present: Joe Taddeucci, Director of Utilities
Joanna Bloom, Utilities Deputy Director of Policy and Planning
Chris Douville, Utilities Deputy Director of Operations
Chris Douglass, Utilities Engineering Senior Manager
Jon Stoddard, Water Treatment Manager
Kate Dunlap, Drinking Water Quality Manager
Meghan Chantler, Water Quality Compliance Program Manager
Stephen Grooters, Utilities Engineering Manager
Karen Sheridan, Board Secretary

Agenda Item 1 – Call to Order **[6:01 p.m.]**

Agenda Item 2 – Approval of 21 October 2024 Meeting Minutes **[6:02 p.m.]**

Motion to approve: Broughton Seconded by: Bridges
Vote: 4:0

Agenda Item 3 – Public Participation and Comment **[6:03 p.m.]**

Lynn Segal: 9,000 people are on board for coming into Boulder. 9,000 more units. This is horrendous, for you know I was just listening to Xcel, and it's like the energy forecasting for demand is like skyrocketing like water. Water is life, you know, like energy is life, too. But all these things are adding up to a perfect storm, and we've got to like, you've got to get ex officios on Planning Board to be able to advocate against all this growth. 9,000 on board now, and they're considering the Planning Reserve, Area III Planning Reserve. And then there's Papilio's, if you know it, Folsom and Pearl. There's the McKenzie Junction. There's Jay Road that just got approved. There's CU South. It's endless, and that's those ones are not even in the 9,000 that are already on board. Papilio's is but where the Hyundai is on 28th, that's another development where the Geological Society of America, it's like historic and a whole community, Waterview which has changed the name to Weathervane appropriately, because it's on the flood plain, and maybe they didn't like the bad press of Waterview. That's a completely entirely closed community that now I'm going to testify a TAB on because there's garages in every space, and they're just moving all over. You know, because you guys drive. I drive 5 times a year, out to this place, you know, because 71 years old, driving in the dark, out here on my bike, and my bike was stolen. And so this is another thing; how can I afford my water bill? And I'm begging to Joanna all the time. My bike's stolen, my catalytic converter stolen, $3,700, and it happens because all these people and the more people and the private equity and the rental-backed securities cause these bigger and bigger companies to buy up. And they want to evict people, because that's the only way they can raise the rent, and they keep on raising the rent, and it drives up the property value. And it's this circular effect. And you guys know all this stuff. I'm just stating the obvious, I mean, but I'm desperate to be able to get us out of this situation and build more just means more people, and it doesn't mean that we have any provisions for them in the infrastructure. And the water. And water is life, right? And we've got the Colorado River, and that, you know, we talk about that all the time. So please please get an ex officio. We really need someone on the other boards, on TAB especially, and on Planning Board. And you know, we just got two people onto Boulder Valley Comp Plan; Laura Kaplan, she's pro the airport, of course, pro growther. And then we got Matt Benjamin, both under the representatives for the Boulder Valley Comp Plan, and everyone's always citing, you know, you're always citing the Boulder Valley Comp Plan. And these people are setting up the context for what you're going to have to meet with that, and we need to do something to stop this craziness. Everybody knows about it. Everyone you talk to, all my friends. Oh, people on the street know. And it's like so stop already. Thanks so much.

Staff Response to Public Comment
Director Taddeucci responded that Area III Planning Reserve will be discussed under Matters from Staff.

Agenda Item 4 – Water Service Line Inventory Update **[6:06 p.m.]**

Meghan Chantler, Water Quality Compliance Program Manager, presented this item.

EXECUTIVE SUMMARY

The City of Boulder has completed its initial inventory of drinking water service lines and found no lead lines. A small number of service lines remain unknown or must be replaced. This memo provides an update to WRAB on the inventory findings and next steps since staff's previous update in July.

WRAB Board Discussion Included:

- Question how to know with certainty what's in the lines between the meter and the house.
- Comment regarding samples size.

Agenda Item 5 – Nederland IGA Renewal **[6:18 p.m.]**

Kate Dunlap, Drinking Water Quality Manager, presented this item.

EXECUTIVE SUMMARY

Barker Reservoir is located near the Town of Nederland and is a key component of the City of Boulder's drinking water supply. Nederland's wastewater treatment facility (WWTF) discharges immediately upstream from Barker, which can influence the reservoir's water quality. Therefore, under an Intergovernmental Agreement (IGA), Boulder has contributed funds to enhance treatment at Nederland's WWTF to reduce phosphorus concentrations and associated water quality impacts in the reservoir. The IGA is set to expire at the end of 2024. The purpose of this memo is to update WRAB on the proposed terms of the IGA renewal with Nederland to protect Barker Reservoir water quality.

WRAB Board Discussion Included:

- Question why Nederland's permit does not require them to meet the state phosphorus limit.
- Question where Nederland draws their water.
- Question why the levels spiked in 2021/2022.
- Question about the reimbursement being tied to compliance.
- Question how many tiers of regulatory levels there are.
- Question if there is knowledge of any analogous situations.

Agenda Item 6 – Matters from Board **[6:35 p.m.]**

No matters were presented.

Agenda Item 7 – Matters from Staff **[6:36 p.m.]**

- Utility Billing Software Upgrade
  - Improvement of security and reliability.
  - Goes live on November 25.
  - All customers need to register for new account.
  - Account and customer numbers from existing account needed.
  - Autopay being ported automatically to new system.
  - January 2025 last paper bill. Bills provided online thereafter. Exceptions can be allowed.
- Area III Planning Reserve
  - 500 acres north of Jay Rd, east of US36 to Broadway and 36. City owns 200 acres.
  - Council asked for urban services study, step one of Comp Plan update.
  - Concept level study includes water, wastewater, stormwater services.
  - Study complete, being presented to Planning Board and Council for acceptance.
  - If study accepted, next step is a community needs study.
  - If not accepted, it will be shelved for 5 years until next Comp Plan update.
  - Scenarios discussed.
- 63rd Water Treatment Plant CIP Project Tour
  - Stems from date-driven 2019 AIM Project.
  - Campus identified as a priority in capital improvement program.

- Core infrastructures including high service pump station and key electrical elements built in 1969.
- Campus delivers 30% of city's potable water.
- Critical for drought tolerance using western slope supplies.
- Sole means of backup to Betasso.
- Overall goal to replace major electrical and high service pump station capital assets.
- Project began in September 2019 and is nearing final completion.

Agenda Item 8 – Discussion of Future Schedule **[7:03 p.m.]**

- December: No meeting.
- January: Utilities Year in Review.
- February: WRAB Retreat.

Agenda Item 9 – Adjournment **[7:05 p.m.]**
Motion to adjourn by: Berggren Seconded by: Broughton
Motion Passes 4:0

Date, Time, and Location of Next Meeting:
The next WRAB meeting will be held in hybrid format at 1777 Broadway on **Monday, January 27, at 6:00 p.m.**

APPROVED BY:

Board Chair: _____

Date: 1/27/25

ATTESTED BY:

Board Secretary: Karen Sheridan

Date: 01.27.25

An audio recording of the full meeting for which these minutes are a summary is available on the Water Resources Advisory Board web page via the Access Meeting Agendas and Materials link.
Water Resources Advisory Board | City of Boulder (bouldercolorado.gov)