



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: October 2, 2018

AGENDA TITLE: Third reading and consideration of a motion to amend and pass Ordinance 8256 amending standards for accessory dwelling units and owner accessory units including Section 4-20-43, “Development Application Fees,” Title 9, “Land Use Code,” and Section 10-3-19, “Short-term Rentals,” B.R.C. 1981, and setting forth related details. Proposed third reading amendments would allow conversion of an affordable ADU to a market ADU, count non-conforming structures in the ADU saturation limit, add co-ops to the saturation limit, change square footage limits, change occupancy limits to not count dependents, create incentives for landmarking, make April 1 the effective date, expand the variance process, and sharpen the primary residence definition.

PRESENTERS

Jane S. Brautigam, City Manager
Kurt Firnhaber, Director of Housing and Human Services (HHS)
Jay Sugnet, Senior Planner (HHS)

EXECUTIVE SUMMARY

On August 29, City Council amended and passed on second reading Ordinance 8256 to update the accessory dwelling unit and owner accessory unit regulations. The ordinance passed on second reading includes standards for affordable accessory units and can be found in **Attachment A**. The ordinance passed with specific motion language requesting additional amendments. Staff incorporated the requested additional amendments in the ordinance attached as **Attachment B**. The additional amendments are summarized below. Staff is asking council to consider amending Ordinance 8256 on third reading and passing it as shown in **Attachment B**. In addition, staff is asking council to consider one additional amendment shown in **Attachment C** that was not previously discussed and would require a property owner of a primary dwelling with a short-term rental license to relinquish such short-term rental license upon approval of an attached or detached accessory dwelling unit on the property (see discussion item #11 below).

**ACCESSORY
DWELLING
UNIT UPDATE**

The [second reading memo](#) outlines the Planning Board and Housing Advisory Board recommendations for incremental changes that address parking, saturation, nonconforming

structures, allowed zones, unit size, lot size, design, the five-year requirement, permit renewals, short-term rentals and accessory unit occupancy. The memo also provides background on the community engagement process and the adoption process through Planning Board and the Housing Advisory Board.

This memo focuses on the ordinance passed by council on August 29 and the motion language that specified amendments to that ordinance.

SUMMARY OF THE AMENDED ORDINANCE

Below is a summary of the August 29 City Council vote to unanimously pass Ordinance 8256 as shown in **Attachment A** on second reading and the specific additional amendments to be incorporated in the ordinance at third reading (proposed third reading ordinance is **Attachment B**).

Staff recommends an effective date of April 1, 2019 for Ordinance 8256 to allow staff time to modify internal city processes to accept and review the different type of ADU applications being created by the amended ordinance.

The amended ordinance creates a new type of ADU called an Affordable ADU. Affordable ADUs can be a larger size and not provide the required additional parking (see #1, #5 and #7 below) in exchange for agreeing to limit rent to 75 percent of the Area Median Income based on bedroom size.

The proposed ordinance in **Attachment B** would approve the following amendments to ADU standards:

1. Parking
 - Allow parking in the front setback for all types of ADUs.
 - Don't require the one additional parking space for an affordable ADU.
2. Saturation
 - Increase the saturation rate from 10 to 20 percent.
 - Include co-ops when calculating the saturation rate.
3. Legal Nonconforming Structures (Saturation Rule)
 - No change. Continue to include legal non-conforming structures in the saturation calculation.
4. Allowed Zones
 - Allow Attached and Detached ADUs in all the same zones.
 - Allow all ADUs in the RMX-2.
 - Rename OAU and ADUs to Detached ADUs and Attached ADUs, respectively.
5. Attached ADUs
 - Allow affordable Attached ADUs to be 1/2 the size of the principal dwelling or 1,000 sq. ft., whichever is less.

- Market rate Attached ADUs will continue to be limited to 1/3 the size of the principal dwelling or 1,000 sq. ft., whichever is less.

6. Lot Size

- Lower the minimum lots size from 6,000 sq. ft. to 5,000 sq. ft. for all types of ADUs.

7. Detached ADU Size

- Increase the size limit for a Detached ADU from 450 to 550 sq. ft.
- Allow up to 800 sq. ft. for Affordable Detached ADUs.

8. Detached ADU Design

- Remove the design requirements related to garage doors, roof pitches, and expansion of building coverage for Detached ADUs and rely on the compatible development standards.
- The requirements for setbacks, height, consistent architecture/materials and open space remain.

9. Five-Year Requirement

- Remove the 5-year minimum age requirement for the primary home to create an ADU.
- Sharpen the definition of primary residence / owner occupancy.

10. Accessory Unit Permit Renewal

- Remove the accessory unit permit transfer system.
- Continue to require a declaration of use and add specific language for affordable ADUs that clearly states the rent restriction provisions and the penalties for not renting at or below the limits.

11. Short-Term Rentals

- Prohibit short-term rentals for newly created ADUs.
- Allow owners with a current ADU and a current short-term rental license (as of March 31, 2019) to continue renting until they either fail to renew the permit or there is a change of ownership.

Currently, amended Ordinance 8256 is written to allow existing principal dwellings with a short-term rental license to continue renting the principal dwelling short-term after the creation of an ADU. The owner would be required to live in the ADU to rent the main house. Staff believes this will be very difficult to enforce and recommends a change to require a homeowner with a short-term rental license on a property that does not currently have a legal ADU to relinquish the short-term rental license for a principal dwelling in exchange for creating an ADU.

OPTION A – *continue to allow the short-term rental of the principal dwelling after the creation of an ADU. No change to the proposed amended Ordinance 8256 (**Attachment B**) is required.*

OPTION B – *prohibit the short-term rental of a principal dwelling once an ADU is created.*

*For Option B, Council would have to further amend Ordinance 8256 as shown in **Attachment C**, to include the following language as a new paragraph (1) in Subsection 10-3-19(k) and renumber the following paragraphs:*

10-3-19, Short-Term Rentals.

(k) An accessory unit or a principal dwelling unit on a single-family lot or parcel with an accessory unit may not be rented as a short-term rental unless all of the following requirements are met:

(1) Both the accessory unit and the principal dwelling unit were legally established on March 31, 2019.

12. Accessory Unit Occupancy Limit

- Remove the 2-person occupancy limit for the ADU.
- Allow roomers in the principal dwelling.
- Modify the current occupancy limit for a property with an ADU to NOT include the owner's dependents in the occupancy count.

Other provisions:

- The city will publish [rent limits](#) for Affordable ADUs annually based on the Colorado Housing and Finance Authority affordable rent calculations (75% of Area Median Income). The rent limits for Affordable ADUs will be established in the city rent table according to the number of bedrooms.
- Penalties for renting above the maximum rents will require the owner to repay the tenant for the amount charged over the maximum rent plus interest.

MOTION LANGUAGE REQUESTING ADDITIONAL AMENDMENTS

Council's second reading motion directed staff to implement specific additional changes in a third reading ordinance. This section of the memo describes *staff's response* to each amendment requested in the motion. The motion language is paraphrased.

Councilmember Brocket moved to amend and pass on second reading Ordinance 8256, amending standards for accessory dwelling units and owner accessory units, as shown in **Attachment A**, and with the following additions:

- Provide a path for Type II ADUs (affordable accessory units) to become a Type I ADU if it complies with the Type I rules.
New language was added (9.6.3(a)(1)(F)) specifying the procedure for a conversion.
- Allow a legal parking space within the setback so long as it is not in the right-of-way or the sidewalk.
Language was modified to remove the setback requirements for required parking for properties with an ADU (9.6.3(a)(2)(B)) and (9.6.3(a)(3)(B)).
- Continue to include non-conforming structures in the saturation calculation and add co-ops as part of the calculation.

Language was added to require the inclusion of co-ops in the saturation calculation (9.6.3(a)(2)(A)(ii)) and (9.6.3(a)(3)(A)(ii)).

- Allow a maximum floor area in Detached OAU's of 550 square feet for a Type I and 800 square feet for a Type II.

Language was modified to specify that the maximum floor area for a Detached ADU is 550 square feet (9.6.3(a)(3)(ii)) and that the maximum floor area for an Affordable Detached ADU is 800 square feet (9.6.3(a)(3)(C)).

- Remove occupancy limit of 2 people in the ADU. Exempt dependents from the occupancy limit for the main house and the ADU.

Language was added to exempt dependents from the occupancy limit (9.6.3(a)(1)(A)(ii)).

- If you landmark a home, allow an ADU that does not meet all the requirements in the ordinance. Staff to refine for the third reading.

Language was added after consulting with the Landmarks Board Additional Dwelling Unit Subcommittee on September 12, 2018 to incentivize properties to landmark in exchange for removing certain barriers. These provisions would apply to landmarked properties and contributing properties in a historic district and include: (1) IF an existing historic structure (e.g., house, carriage house, barn) is converted into a Detached ADU, allow the size to be up to 1/2 the size of the principal dwelling or 1,000 square feet, whichever is less; (2) allow an Attached ADU to be 1/2 the size of the principal dwelling or 1,000 square feet, whichever is less; (3) do not require the one additional parking space for both Detached and Attached ADUs; and (4) increase the saturation limit from 20 percent to 30 percent (9.6.3(a)(2)(E)) (9.6.3(a)(3)(E)).

- Allow amnesty period for six months during which time owners of existing illegal ADUs could come in and apply without penalty. After that period of time a penalty would apply as determined by staff.

The city is currently not enforcing against illegal rentals (i.e., imposing fines) pending the outcome of the ADU Update process. Staff will continue this practice for an additional month after the April 1, 2019 effective date of the ordinance. After that time, staff will resume full enforcement against illegal rentals. It is anticipated that many illegal rentals will be able to meet the new regulations, however, some that were built illegally and without any permits may not be able to meet the requirements (e.g., life safety) and may be required to remove certain aspects of the rental (e.g., cooking facilities).

- Allow a more expansive variance process fleshed out in terms of criteria (size of walls, etc.).

Staff amended the variance criteria to allow for slightly larger ADU sizes where an unusual design of the existing structure, such as larger wall depth due to construction types such as adobe, straw bale or older homes, would otherwise result in a smaller interior ADU size (9.2.3(i)(1)(A-D)). For background, floor area is the measurement of the total 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.

- Sharpen the definition of what a primary residence is for the purposes of this ordinance. *A definition for Principal Residence was added to the definitions section of 9-6-3 that is consistent with the definition used for enforcement of the short-term rental regulations.*

STAFF RECOMMENDATION

Staff finds that the ADU Update Ordinance 8256 would remove barriers to the construction of this housing type in ways that are compatible with neighborhoods. Based on this conclusion, staff recommends that council adopt one of the following motions:

Motion Option A:

Motion to amend and pass on third reading Ordinance 8256 as shown in **Attachment B**, amending standards for accessory dwelling units and owner accessory units including Section 4-20-43, “Development Application Fees,” Title 9, “Land Use Code,” and Section 10-3-19, “Short-term Rentals,” B.R.C. 1981, and setting forth related details.

OR:

Motion Option B:

Motion to amend and pass on third reading Ordinance 8256 as shown in **Attachment B** and with the additional amendment shown in **Attachment C**, amending standards for accessory dwelling units and owner accessory units including Section 4-20-43, “Development Application Fees,” Title 9, “Land Use Code,” and Section 10-3-19, “Short-term Rentals,” B.R.C. 1981, and setting forth related details.

ATTACHMENTS

- Ordinance 8256 as passed on second reading
- Amended Ordinance 8256 incorporating Council’s second reading motion
- Amendment proposed in addition to Attachment B (would prohibit the short-term rental of a principal dwelling once an ADU is created)

ORDINANCE 8256

AN ORDINANCE AMENDING STANDARDS FOR ACCESSORY DWELLING UNITS AND OWNER ACCESSORY UNITS INCLUDING SECTION 4-20-43, "DEVELOPMENT APPLICATION FEES," TITLE 9, "LAND USE CODE," AND SECTION 10-3-19, "SHORT-TERM RENTALS," B.R.C. 1981, AND SETTING FORTH RELATED DETAILS.

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

Section 1. Section 4-20-43, "Development Application Fees," B.R.C. 1981, is amended and subsequent paragraphs shall be renumbered, to read as follows:

...

(b) Land use regulation fees:

...

(11) An applicant for an attached accessory dwelling unit permit shall pay \$420.00

~~(12) An applicant for the transfer of an accessory dwelling unit shall pay \$168.00~~

~~(12)~~ (13) An applicant for an owner's detached accessory dwelling unit shall pay \$420.00

~~(14) An applicant for the transfer of an owner's accessory unit shall pay \$168.00~~

~~(13)~~ (15) An applicant for a limited accessory unit shall pay \$420.00

~~(16) An applicant for the transfer of a limited accessory unit shall pay \$168.00~~

...

Section 2. Section 9-2-3, "Variances and Interpretations," B.R.C. 1981, is amended to read as follows:

9-2-3. – Variances and Interpretations.

...

(d) Board of Zoning Adjustment (BOZA): The BOZA may grant variances from the requirements of:

(1) Setback, separation and bulk plane requirements listed in Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, and standards referred to in that section;

(2) The building coverage requirements of Section 9-7-11, "Maximum Building Coverage," and chapter 9-10, "Nonconformance Standards," B.R.C. 1981;

- (3) The spacing requirements for mobile homes of Section 9-7-13, "Mobile Home Park Form and Bulk Standards," B.R.C. 1981;
- (4) The porch setback and size requirements of Section 9-7-4, "Setback Encroachments for Front Porches," B.R.C. 1981;
- (5) The side yard wall articulation standards of Section 9-7-10, "Side Yard Wall Articulation Standards," B.R.C. 1981;
- (6) The size ~~and parking~~ setback requirements for accessory units of Subsection 9-6-3(a), B.R.C. 1981;
- (7) The total cumulative building coverage requirements for accessory buildings of Section 9-7-8, "Accessory Buildings in Residential Zones," B.R.C. 1981;
- (8) The use of a mobile home for nonresidential purposes subject to the requirements of Subsection 10-12-6(b), B.R.C. 1981;
- (9) The parking requirements of Subsection 9-9-6(d), B.R.C. 1981, with regards to parking in landscaped front yard setbacks; and
- (10) Sign code variances and appeals as permitted by Subsection 9-9-21(s), B.R.C. 1981.

In granting any variance, the board may attach such reasonable conditions and safeguards as it deems necessary to implement the purposes of this title.

...

- (i) ~~Floor Area Variances for Accessory Dwelling Units:~~ The BOZA may grant a variance to the maximum floor area allowed for an attached accessory dwelling unit or for a detached accessory dwelling unit under Subsection 9-6-3(a), B.R.C. 1981, only if it finds that the application satisfies all of the following applicable requirements:

- (1) That the interior configuration of the ~~house-building~~ is arranged in such a manner that the space to be used as the attached accessory dwelling unit or detached accessory dwelling unit cannot feasibly be divided in conformance with the size requirements;
- (2) That the variance, if granted, meets the essential intent of this title, and would be the minimum variance that would afford relief; and
- (3) That the strict application of the provisions at issue would impose an undue and unnecessary hardship on the individual and that such hardship has not been created by the applicant.

...

Section 3. That portion of Table 6-1 in Section 9-6-1, "Schedule of Permitted Land Uses,"

B.R.C. 1981, related to accessory units, is amended to read as follows:

TABLE 6-1: USE TABLE

Zoning District	RR-1, RR-2, RE, RL-1	RL-2, RM-2	R M-1, R M-3	RM X-1	R M X-2	RH -1, RH -2, RH -4, RH -5	RH -3, RH -7	R H-6	M H	MU -3	MU -1	MU -2	M U-4	BT-1, BT-2	B M S	BC -1, BC -2	BC S	BR -1, BR -2	DT -4	DT -5	DT-1, DT-2, DT-3	IS-1, IS-2	IG	IM	IMS	P	A	
Use Modules	R1	R2	R3	R4	R5	R6	R7	R 8	M H	M1	M2	M3	M4	B1	B 2	B3	B4	B5	D1	D2	D3	I1	I2	I3	I4	P	A	Speci fic Use Stand ard
Accessory units:																												
A. <u>Attached</u> accessory dwelling unit	C	C	*	<u>≠C</u>	<u>≠C</u>	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	C	C	9-6-3(a)
B. <u>Owner's Detached</u> accessory dwelling unit	C	<u>≠C</u>	*	C	<u>≠C</u>	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	<u>≠C</u>	<u>≠C</u>	9-6-3(a)
C. Limited accessory unit	C	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	9-6-3(a)
Caretake r dwelling unit	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	A	A	A	A	A	A	

Section 4. 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) Accessory Units:

- (1) General Requirements: Three types of accessory units are permitted: Attached Accessory Dwelling Units, Owner's Detached Accessory Dwelling Units, and Limited Accessory Units. The following standards apply to all three types of accessory units:

(A) Standards:

- (i) ~~Owner-Occupied: The owner of the property must reside in one of the permitted principal dwelling units or accessory unit on the site parcel or lot must be owner-occupied.~~
- (ii) ~~Occupancy Requirement: The occupancy of any accessory unit must not exceed two persons. For purposes of determining occupancy requirements under Section 9-8-5, "Occupancy of Dwelling Units," B.R.C. 1981, the principal dwelling unit and accessory unit shall be considered one dwelling unit. The occupancy of the owner-occupied principal dwelling unit together with the occupancy of any accessory unit does shall not exceed the occupancy requirements set forth in Section 9-8-5, "Occupancy of Dwelling Units," B.R.C. 1981, for one dwelling unit. 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 unit.~~
- ~~(iii) Additional Roomers Prohibited: The property is not also used for the renting of rooms pursuant to Paragraph 9-8-5(a)(1), B.R.C. 1981.~~
- (iii) Rental License: No owner of the property shall allow, or offer to allow through advertisement or otherwise, any person to occupy the accessory unit or the principal dwelling unit as a tenant or lessee or otherwise for a valuable consideration unless such rented unit has been issued a valid rental license by the city manager consistent with the requirements of Chapter 10-3, "Rental Licenses," B.R.C. 1981.
- (iv) Short-term Rental: Short-term rental of an accessory unit and short-term rental of a principal dwelling unit on a lot or parcel with an accessory unit are prohibited except as specifically authorized in Section 10-3-19, "Short-term Rentals," B.R.C. 1981.
- (B) Application: All applicants shall apply on forms provided by the city manager showing how and in what manner the criteria of this subsection are met, provide a statement of current ownership and a legal description of the property, pay the application fee prescribed by Section 4-20-43, "Development Application Fees," B.R.C. 1981, and submit plans as may be required by the manager.
- (C) Public Notice: Notice of the application shall be provided consistent with "Public Notice Type 4," as defined by Subsection 9-4-3(a), B.R.C. 1981.
- (D) Review and Approval: All applications for accessory units shall be reviewed under the procedures of Section 9-2-2, "Administrative Review Procedures." B.R.C. 1981.
- (E) Declaration of Use Required: Before ~~receiving the permit~~obtaining approval, all owners shall sign a declaration of use, including all the conditions for continued use, to be recorded in the office of the Boulder County Clerk and Recorder to serve as actual and constructive notice of the legal status of the owner's property. If the unit is to be an Affordable Accessory Unit, the declaration shall include a sworn certification that the unit will be Affordable and a statement of the number of bedrooms.

- (F) ~~Expiration and Revocation of Permit: An accessory unit permit granted by the city manager or planning board automatically expires 180 days after the date on which it is granted unless a rental license for the unit is obtained within such period. The manager may grant an extension of this period for good cause shown, but only if application therefor is made prior to the expiration of the period. After revocation or expiration of the accessory unit permit, the manager will inspect the property to ensure that the accessory unit has been removed.~~
- (i) ~~Expiration: An accessory unit permit expires upon the failure of the permittee to satisfy any condition prescribed by this Subsection (a) or upon the sale, conveyance, or transfer of the property upon which the unit is located.~~
- (ii) ~~Revocation: An accessory unit permit may be revoked by the city manager upon the permittee's or the permittee's tenant's conviction of a violation of this title or any provision of chapter 5-9, "Noise," Section 6-1-21, "Animals as Nuisance Prohibited," chapter 6-2, "Weed Control," chapter 6-3, "Trash," or Section 9-9-21, "Signs," B.R.C. 1981.~~
- (iii) ~~Removal Required: Upon notification of permit expiration or revocation, the permittee may request a hearing as provided in chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981. Within thirty days of revocation or expiration of a permit, no owner shall fail to remove the accessory unit and return the property to its single-family use status as a single dwelling unit. The applicant shall either:~~
- a. ~~Remove the kitchen within the accessory unit and any physical separation between the accessory unit and the balance of the unit; or~~
- b. ~~Remove any physical separation between the accessory unit and the balance of the unit and sign a declaration of use in a form acceptable to the city manager, which will be recorded with the Boulder County Clerk and Recorder, stating the property will remain owner-occupied for so long as the accessory unit kitchen remains and that the dwelling unit is used by the owner and the owner's family in a manner consistent with Section 9-8-5, "Occupancy of Dwelling Units," B.R.C. 1981. No person shall fail to remove the additional kitchen installed pursuant to this subsection if the dwelling unit is no longer owner-occupied and if the dwelling unit requires a rental license under chapter 10-3, "Rental Licenses," B.R.C. 1981.~~
- (G) ~~Limitations on Reapplication After Revocation: Upon revocation of a permit, the owner may not reapply for an accessory dwelling unit permit for any location in the city for a period of three years following the date of revocation or conviction.~~
- (H) ~~Transfer: An accessory dwelling unit permit may be transferred to the new owner of a dwelling unit that has an existing, approved accessory unit, if there is no person on the waiting list within the dwelling unit's neighborhood area. A new property owner may apply to transfer an accessory unit permit into its name if the following standards are met:~~

- ~~(i) Proof of Ownership: The transfer applicant shall provide proof of ownership or of pending ownership of the dwelling unit.~~
 - ~~(ii) Declaration of Use Required: The transfer applicant shall sign a declaration of use, that will be recorded with the Boulder County Clerk and Recorder acknowledging that the accessory dwelling unit is not automatically transferable to subsequent purchasers, that no vested right to duplex status arises by virtue of the city's granting of the accessory dwelling unit permit or a building permit to construct the same, and that lists all the conditions for the continued use of the accessory dwelling unit.~~
 - ~~(iii) Rented or Occupied: The transfer applicant shall provide proof that the accessory dwelling unit has been rented or occupied in the year prior to the application for the transfer.~~
 - ~~(iv) Expiration: If a new owner fails to apply for a transfer of the permit within thirty days of the purchase of the dwelling unit, the permit shall automatically expire and the reestablishment of an accessory dwelling unit will require a new application.~~
 - ~~(v) Fees: The applicant shall pay the fee required by section 4-20-43, "Development Application Fees," B.R.C. 1981, and all necessary fees for recording documents with the Boulder County Clerk and Recorder.~~
 - ~~(vi) Rental License Required: The new owner shall apply for a rental license after the transfer of the accessory dwelling unit has been approved.~~
- (2) Attached Accessory Dwelling Units: In addition to the general accessory unit standards in paragraph (a)(1) of this section, the following standards apply to attached accessory dwelling units. The owner or the owners of a lot or parcel with an existing single-family dwelling unit may establish and maintain an attached accessory dwelling unit within the principal structure of a detached dwelling unit in the RL-1, RL-2, RE, RR, RE-1, RR-2, RL, RMX, A or P districts if all of the following conditions are met and continue to be met during the life of the attached accessory dwelling unit:
 - (A) Neighborhood Area: In the RL-1 or, RL-2, RE, RR-1, RR-2, A or P zoning districts, no more than ~~ten-twenty~~ percent of the ~~single-family~~ lots or parcels in a neighborhood area contain an accessory ~~dwelling-unit~~. For the purpose of this subparagraph:
 - (i) The "neighborhood area" in RL-1, and RL-2 and P zoning districts is the area circumscribed by a line three hundred feet from the perimeter of the lot line within which any accessory ~~dwelling-unit~~ will be located. The "neighborhood area" is limited to lots or parcels within the RL-1 and RL-2 zoning districts.
 - ~~(ii) The "neighborhood area" in RE, RR-1, RR-2 and A zoning districts is the area circumscribed by a line six hundred feet from the perimeter of the lot line within which any accessory dwelling unit will be located.~~
 - ~~(iii) For the purpose of calculating the ten percent limitation factor, a legal, nonconforming structure containing two or more units or a limited accessory~~

~~unit is counted as an accessory dwelling unit.~~ The city manager may promulgate regulations defining additional methods to be used in calculating the ~~ten-twenty~~ percent limitation factor and the neighborhood area.

- (iii) ~~v~~ If an application for an accessory ~~dwelling~~ unit exceeds the ~~ten-twenty~~ percent requirement set forth in this subparagraph (a)(2)(A), the city manager will place the applicant on a waiting list for the neighborhood area. At such time as there is room for an additional accessory ~~dwelling~~ unit within a neighborhood area, the city manager will notify the first eligible person on the waiting list. Such person on the waiting list shall be required to provide notice of intent to file an application within thirty days and file an application within sixty days of such notice.

(B) Parking: ~~In addition to~~ The attached accessory dwelling unit shall have the following off-street parking:

- (i) the number of off-street parking places required in the zoning district for the principal dwelling unit; and
- (ii) ~~parking required in each district~~ one additional off-street parking space is ~~provided~~ on the lot or parcel upon which the detached dwelling unit is located meeting the setback requirements of section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, unless a variance to the setback is granted pursuant to section 9-2-3, "Variances and Interpretations," B.R.C. 1981.

(C) Criteria: The attached accessory dwelling unit is clearly incidental to the principal dwelling unit and meets the following criteria:

- (i) The attached accessory dwelling unit is created only in a single-family detached dwelling unit on a lot of ~~six~~ five thousand square feet or more.
- (ii) The attached accessory dwelling unit is ~~a minimum of three hundred square feet, and~~ does not exceed one-third of the total floor area of the principal structure, unless a variance is granted pursuant to section 9-2-3, "Variances and Interpretations," B.R.C. 1981, or one thousand square feet, whichever is less.
- (iii) ~~The accessory dwelling unit utilizes only those utility hookups and meters allotted to the detached dwelling unit.~~
- (iv) ~~The accessory dwelling unit is created only through internal conversion of the principal structure. Minor exterior changes may be made on the building if the square footage added constitutes no more than five percent of the principal structure's existing foundation area.~~
- (viii) If there is an interior connection between the attached accessory dwelling unit and the principal dwelling prior to the creation of the attached accessory dwelling unit, the connection shall be maintained during the life of the attached accessory dwelling unit.

(iv) Any additional entrance resulting from the creation of an attached accessory dwelling unit may face the side of the lot fronting on the street only if such entrance is adequately and appropriately screened in a manner that does not detract from the single-family appearance of the principal dwelling.

~~(D) Permits for Existing Units: No permit for an accessory dwelling unit shall be granted for a detached dwelling that is not at least five years old.~~

(D) Affordable Accessory Units. If the attached accessory unit is licensed as an Affordable Accessory Unit, the unit shall only be required to provide the parking required in the district for the principal dwelling unit and may be more than one-third of the total floor area of the principal structure but shall not exceed one-half of the floor area of the principal structure or one thousand square feet, whichever is less. If the unit is or will be offered for rental for compensation, on or before March 1, 2019, the owner must obtain and at all times thereafter maintain a valid rental license for an Affordable Accessory Unit issued by the city manager consistent with the requirements of Chapter 10-3, "Rental Licenses," B.R.C. 1981.

~~(E) Accessory Unit Will Not Become a Nonconforming Use: If the provisions of this subsection are repealed by this or any future city council, the legal use of an accessory unit must be terminated within five years from the date of repeal, and the accessory unit will not become a nonconforming use.~~

~~(3) Limited Accessory Units: In addition to the general accessory unit standards in paragraph (a)(1) of this section, the following standards apply to limited accessory units. An existing nonconforming duplex or two detached dwelling units located on the same lot and within the R1 use module may be converted to limited accessory dwelling units. A limited accessory dwelling unit may be modified and expanded as a conditional use. Conversion to a limited accessory dwelling unit is subject to compliance with all of the following standards:~~

~~(A) Applicability: This subsection (a)(3) is only applicable to dwelling units that legally existed, were actively used as multiple dwelling units, and had a valid rental license on January 1, 2005.~~

~~(B) Expansion Limitation: The cumulative total of any expansion shall not exceed twenty percent of the total floor area that was documented at the time of the initial expansion. Any expansion of the restricted accessory unit shall not exceed ten percent. In no case shall any expansion cause the cumulative size of the restricted dwelling units to exceed the maximum allowable floor area ratio of the underlying zoning district as set forth in Section 9-8-1, "Schedule of Intensity Standards," B.R.C. 1981.~~

~~(C) Parking: The minimum number of off-street parking spaces shall not be less than three spaces. All parking shall comply with the design and access requirements set forth in Section 9-9-6, "Parking Standards," B.R.C. 1981. A minimum of one off-street parking space shall be available for use by the restricted accessory dwelling unit.~~

(D) ~~Loss of Prior Nonconforming Status: If a nonconforming duplex or two detached dwelling units are converted to limited accessory units through the conditional use process, any prior nonconforming status is lost.~~

(34) Owner's Detached Accessory Dwelling Units: In addition to the general accessory unit standards in paragraph (a)(1) of this section, the following standards apply to ~~owners'~~ detached accessory dwelling units. An owner or the owners of a lot or parcel with an existing single-family dwelling unit may establish and maintain ~~an owner's detached accessory dwelling unit within the principal structure of the detached dwelling unit, or~~ within an accessory structure meeting the size restrictions described below, on a lot or parcel in the RR, RE, ~~RL, and~~ RL, A and P districts if all of the following conditions are met and continue to be met during the life of the ~~owner's detached accessory dwelling~~ unit:

(A) Neighborhood Area: In the RL-1 and RL-2 zoning districts, no more than twenty percent of the lots or parcels in a neighborhood area contain an accessory unit. For the purpose of this subparagraph:

(i) The "neighborhood area" in RL-1 and RL-2 zoning districts is the area circumscribed by a line three hundred feet from the perimeter of the lot line within which an accessory unit will be located. The "neighborhood area" is limited to lots or parcels within the RL-1 and RL-2 zoning districts.

(ii) The city manager may promulgate regulations defining additional methods to be used in calculating the twenty percent limitation factor and the neighborhood area.

(iii) If an application for a detached accessory dwelling unit exceeds the twenty percent requirement set forth in subparagraph (a)(3)(A), the city manager will place the applicant on a waiting list for the neighborhood area. At such time as there is room for an additional accessory unit within the neighborhood area, the city manager will notify the first eligible person on the waiting list. Such person on the waiting list shall be required to provide notice of intent to file an application within thirty days and file an application within sixty days of such notice.

(AB) Parking: The detached accessory dwelling unit shall have the following parking:

(i) the number of off-street parking places required in the zoning district for the principal dwelling unit; and

(ii) In addition to the parking required in each district, one additional paved off-street parking space is provided on the lot or parcel upon which the detached dwelling unit is located meeting the setback requirements of Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, unless a variance to the setback is granted pursuant to Section 9-2-3, "Variances and Interpretations," B.R.C. 1981. To the extent practical, any additional off-street parking that is constructed in the RR or RE zoning district required for the ~~owner's detached~~ accessory unit shall be screened from the view of properties that directly abut a property line of the ~~owner's detached~~ accessory unit.

(~~BC~~) Incidental to Principal Dwelling Unit: The ~~owner's detached~~ accessory dwelling unit is clearly incidental to the principal dwelling unit and meets the following criteria:

- (i) The ~~owner's detached~~ accessory dwelling unit is created on a lot of ~~six-five~~ thousand square feet or larger, ~~which contains only one detached single-family dwelling in the RMX zoning district. The owner's accessory unit is created on a lot that meets the minimum lot size requirements of the underlying zoning district in the RR or RE zoning districts and contains only one detached single-family dwelling.~~
- (ii) ~~If the owner's accessory unit is located within the detached dwelling unit, the principal structure shall be at least one thousand five hundred square feet in size, excluding garage space.~~
- (iii) The ~~owner's detached~~ accessory dwelling unit does not exceed one-third of the total floor area of the principal structure, unless a variance is granted pursuant to Section 9-2-3, "Variances and Interpretations," B.R.C. 1981, or ~~one thousand~~ four hundred and fifty square feet, whichever is less.
- (iv) ~~If there is an interior connection between the owner's accessory unit and the principal dwelling prior to the creation of the owner's accessory unit, the connection shall be maintained during the life of the owner's accessory unit. Any additional entrance resulting from the creation of an owner's accessory unit, within the principal building, may face the side of the lot fronting on the street only if such entrance is adequately and appropriately screened in a manner that does not detract from the single family appearance of the principal dwelling.~~
- (iii) ~~v~~ The following design standards apply to ~~owner's detached~~ accessory dwelling units in a detached accessory structure:
 - a. ~~If garage doors are placed on the unit, they shall be single-car doors (no two-car wide doors).~~
 - b. ~~All units shall be designed to have a pitched roof of 6:12 or greater. No flat roofs or lower pitched roofs shall be permitted unless consistent with the architecture of the existing house on the property.~~
 - ea. Maximum height of accessory buildings with an ~~owner's detached~~ accessory dwelling unit shall not be greater than twenty feet unless the roof pitch is greater than 8:12 and the resulting ratio of the height of the roof (measured from the eave line to the top of the roof) to the height of the side walls (measured from the low point of grade to the eave line) is less than a 1:2 ratio. In no case may a building be taller than twenty-five feet.
 - eb. An ~~owner's detached~~ accessory dwelling unit shall have a minimum of sixty square feet of private open space provided for the exclusive use of the occupants of the ~~owner's detached~~ accessory dwelling unit. Private open space may include porches, balconies or patio areas. Decks, porches,

patios, terraces and stairways, located at a height greater than thirty inches above grade, shall be considered part of the building coverage.

ec. Architectural design and materials shall be consistent with the existing residence on the site or the adjacent building(s) along the side yards of the lot.

fd. Setbacks shall comply with accessory building setbacks. Where the rear yard of a property in the RR or RE zoning district directly abuts an RL zoning district, the rear yard accessory building setback shall be the same as the side yard setback for accessory buildings for applicable RR or RE zoning districts.

~~g. The owner's accessory unit is in a building that has a building coverage of less than five hundred square feet and the owner's accessory unit does not exceed four hundred fifty square feet of floor area.~~

~~(C) Variance of Building Coverage: The city manager may grant a variance to the building coverage requirements of Subparagraph (a)(4)(B)(v)g of this section upon finding that the following conditions are met:~~

~~(i) The owner's accessory unit is created in a building that was legally in existence prior to June 3, 1997; and~~

~~(ii) A reduction in the building footprint size of the existing building to conform to the five hundred square foot limitation would create a substantial hardship for the applicant.~~

(C) Affordable Accessory Units. If the detached accessory unit is licensed as an Affordable Accessory Unit, the unit shall only be required to provide the parking required in the district for the principal dwelling unit and may be more than one-third of the total floor area of the principal structure but shall not exceed one-half of the floor area of the principal structure or six hundred fifty square feet, whichever is less. If the unit is or will be offered for rental for compensation, on or before March 1, 2019, the owner must obtain and at all times thereafter maintain a valid rental license for an Affordable Accessory Unit issued by the city manager consistent with the requirements of Chapter 10-3, "Rental Licenses," B.R.C. 1981.

(4) Limited Accessory Units: In addition to the general accessory unit standards in paragraph (a)(1) of this section, the following standards apply to limited accessory units. An existing nonconforming duplex or two detached dwelling units located on the same lot and within the R1 use module may be converted to limited accessory dwelling units. A limited accessory dwelling unit may be modified and expanded as a conditional use. Conversion to a limited accessory dwelling unit is subject to compliance with all of the following standards:

(A) Applicability: This subsection (a)(3) is only applicable to dwelling units that legally existed, were actively used as multiple dwelling units, and had a valid rental license on January 1, 2005.

(B) Expansion Limitation: The cumulative total of any expansion shall not exceed twenty percent of the total floor area that was documented at the time of the initial expansion. Any expansion of the restricted accessory unit shall not exceed ten percent. In no case shall any expansion cause the cumulative size of the restricted dwelling units to exceed the maximum allowable floor area ratio of the underlying zoning district as set forth in Section 9-8-1, "Schedule of Intensity Standards," B.R.C. 1981.

(C) Parking: The minimum number of off-street parking spaces shall not be less than three spaces. All parking shall comply with the design and access requirements set forth in Section 9-9-6, "Parking Standards," B.R.C. 1981. A minimum of one off-street parking space shall be available for use by the restricted accessory dwelling unit.

(D) Loss of Prior Nonconforming Status: If a nonconforming duplex or two detached dwelling units are converted to limited accessory units through the conditional use process, any prior nonconforming status is lost.

...

Section 5. Section 9-8-5, "Occupancy of Dwelling Units," B.R.C. 1981, is amended to read as follows:

...

(b) Attached Accessory Dwelling Unit, ~~Owner's Detached~~ Accessory Dwelling Unit, or Limited Accessory Dwelling Unit: The occupancy of an attached accessory dwelling unit, ~~owner's detached~~ accessory dwelling unit, or limited accessory dwelling unit must meet the requirements of Subsection 9-6-3(a), B.R.C. 1981.

...

Section 6. That portion of Table 9-2 in Section 9-9-6, "Parking Standards," B.R.C. 1981, related to parking requirements for accessory dwelling units and owner accessory units is amended to read as follows:

TABLE 9-2: USE SPECIFIC MOTOR VEHICLE PARKING REQUIREMENTS FOR RESIDENTIAL USES IN ALL ZONES

<i>Use</i>	<i>Parking Requirement</i>
...	

1 2 3 4	Attached accessory dwelling unit, owner's detached accessory dwelling unit	1 space, paved, in addition to the off-street parking requirement for the principal DU <u>must be met, plus any parking space required for the accessory dwelling unit under Section 9-6-3(a), B.R.C. 1981.</u>
5	...	

6 Section 7. Section 9-14-2, "General Provisions," B.R.C. 1981, is amended to read as
7 follows:

8 **9-14-2. – General Provisions.**

9 A system of managing the issuance of residential building permits in the city is established with
10 the following general provisions:

11 (b) Allocations Needed: One allocation is needed to secure a building permit to construct each
12 dwelling unit, except as set forth below. The living quarters set forth below shall require:

- 13 (1) One-half allocation for an efficiency living unit; one-third allocation for a group
14 residence; and one-sixth allocation or one-eighth allocation for each occupant for a
15 group care facility or a residential care facility respectively, according to the density and
16 occupancy restrictions of subsection 9-6-3(f), B.R.C. 1981;
- 17 (2) One-fifth allocation for accommodations without kitchens or one-third allocation for
18 attached allocations for congregate care facilities, according to the density and
19 occupancy restrictions of section 9-8-6, "Occupancy Equivalencies for Group
20 Residences," B.R.C. 1981;
- 21 (3) One allocation for any other type of dwelling unit;
- 22 (4) No allocation for an attached accessory dwelling unit, ~~an owner's detached~~ accessory
23 dwelling unit, a bed and breakfast, a hostel, a hotel or a motel.

24 ...
25 Section 8. Section 9-16-1, "General Definitions," B.R.C. 1981, is amended to read as
follows:

26 **9-16-1. – General Definitions.**

27 ...
28 (c) The following terms as used in this title have the following meanings unless the context clearly
29 indicates otherwise:

30 Affordable means rents not exceed the maximum rents established by the Colorado Housing and
Finance Authority or similar agency for households earning no more than seventy percent of the

1 area median income. The city manager shall publish a table setting forth the maximum rents based
2 on information provided by the Colorado Housing and Finance Authority or its similar agency.

3 *Affordable Accessory Unit* means a unit for which the rent is Affordable.

4 ...

5 *Attached accessory dwelling unit* means a separate and complete single housekeeping unit within
6 a detached dwelling unit, permitted under the provisions of Subsection 9-6-3(a), B.R.C. 1981.

7 ...

8 *Housekeeping unit* means one room or rooms with internal connections for separate residential
9 occupancy and including bathroom and kitchen facilities. Multiple housekeeping units exist if
10 there is more than one address to the property or more than one kitchen; or if there are separate
11 entrances to rooms which could be used as separate housekeeping units; or if there is a lockable,
12 physical separation between rooms in a dwelling unit such that a room or rooms on each side of
13 the separation could be used as a housekeeping unit or rooms with no internal connections.

14 ...

15 *Kitchen* means any part of a room or dwelling unit that can be used for the preparation of food
16 that includes one or more of the following: a refrigerator, cooking device, kitchen sink, or
17 dishwasher. The following do not constitute a kitchen under this definition: (1) a wet bar; or (2)
18 an ancillary refrigerator that is used solely to store food that is prepared in the kitchen of a
19 principal dwelling unit.

20 ...

21 *Owner-occupied* means a dwelling unit or accessory unit that is actually and physically occupied
22 as a principal residence by at least one owner of record of the lot or parcel upon which the
23 dwelling unit or accessory unit is located, who possesses at least an estate for life or a fifty
24 percent fee simple ownership interest or is the trustor of a revocable living trust.

25 ...

26 ~~*Owner's Detached accessory dwelling unit*~~ means a separate and complete single housekeeping
27 unit ~~which is accessory within an accessory structure to the principal dwelling unit~~ owner's
28 occupancy of the lot or parcel upon which the unit is located that is permitted under the
29 provisions of paragraph 9-6-3 (a)(34), B.R.C. 1981.

30 ...

31 *Wet bar* means a bar for mixing drinks that may contain a sink with running water, a dishwasher,
32 and a refrigerator but no other facilities that can be used for the preparation of food other than
33 mixing drinks. A sink in a wet bar must be smaller than a kitchen sink, as defined in Section 10-
34 2-2, B.R.C. 1981.

Section 9. Section 10-2-2, "Adoption of International Property Maintenance Code with Modifications," B.R.C. 1981, Appendix C, Section C101.1 Scope, is amended to read as follows:

10-2-2.-Adoption of International Property Maintenance Code with Modifications.

...

**APPENDIX C
ENERGY EFFICIENCY REQUIREMENT
EXISTING RESIDENTIAL RENTAL STRUCTURES
ENERGY CONSERVATION**

C101

SCOPE

C101.1 Scope. Appendix C sets standards for residential rental dwelling unit energy efficiency. Effective January 2, 2019, the energy efficiency requirements of this section shall apply to all residential rental dwelling units licensed according to Chapter 10-3, "Rental Licenses," B.R.C. 1981, except:

1. Buildings that can be verified as meeting or exceeding the energy efficiency requirements of the Energy Conservation Code, Chapter 10-7, B.R.C. 1981; and
2. Any manufactured home; and
3. ~~Attached Accessory accessory Dwelling dwelling Units units and Attached Owner Accessory Units~~ as detailed in Section 9-6-3, "Specific Use Standards Residential Uses," B.R.C. 1981.

...

Section 10. Section 10-3-6 "License Application Procedure for Buildings Converted to Rental Property," B.R.C. 1981 is amended as follows:

10-3-6. - License Application Procedure for Buildings Converted to Rental Property.

Every operator converting a property to rental property shall follow the procedures in this section for procuring a rental license:

- (a) Submit a complete application packet for a license to the City, on official city forms provided for that purpose, at least thirty days before rental of the property including:
 - (1) A rental housing inspector's certification of baseline inspection dated within twelve months before the application. The operator shall make a copy of the inspection form available to city staff and tenants of inspected units within fourteen days of a request; and

- (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. (b) Pay all license fees prescribed by Section 4-20-18, "Rental License Fee," B.R.C. 1981, at the time of submitting the license application. The city manager shall not issue any rental license if the operator owes any fees or penalties, unless the penalties are subject to a pending appeal. (c) Take all reasonable steps to notify any occupants of the property in advance 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; and
- (4) If the unit is an Affordable Accessory Unit as defined in section 9-16-1, "Definitions," B.R.C. 1981, a sworn certification that the unit will be Affordable as defined in section 9-16-1 "Definitions," B.R.C. 1981.

Section 11. Section 10-3-7 "License Renewal Procedure for Buildings Occupied as Rental Property," B.R.C. 1981 shall be amended as follows:

10-3-7. - License Renewal Procedure for Buildings Occupied as Rental Property.

Every operator of a rental property shall follow the procedures in this section when renewing an unexpired license:

- (a) Pay all license fees prescribed by Section 4-20-18, "Rental License Fee," B.R.C. 1981, before the expiration of the existing license. The city manager shall not issue any rental license if the operator owes any fees or penalties, unless the penalties are subject to a pending appeal.
- (b) Submit to the city manager a complete application packet, on forms provided by the manager including:
 - (1) A rental housing inspector's certification of renewal inspection within twelve months before application. The operator shall make a copy of the inspection form available to city staff and tenants 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; and
 - (4) If the unit is an Affordable Accessory Unit as defined in section 9-16-1, "Definitions," B.R.C. 1981, a sworn certification that the unit will meet the rental affordability standard.
- (c) Take all reasonable steps to notify in advance all tenants 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.

Section 12. Section 10-3-16, "Administrative Remedy," B.R.C. 1981, is amended to read as follows:

10-3-16. - 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 any violation in the following areas: The area south of Arapahoe Avenue, north of Baseline Road, east of 6 th Street and west of Broadway, the area south of Baseline Road, north of Table Mesa Drive, east of Broadway and west of U.S. Route 36 and the area south of Canyon Boulevard, north of Arapahoe Avenue, west of Folsom Street and east of 15th Street:
 - (i) For the first violation of the provision, \$500.00;
 - (ii) For the second violation of the same provision, \$750.00; and
 - (iii) For the third violation of the same provision, \$1,000.00;
 - (B) For a violation in any other area:
 - (i) For the first violation of the provision, \$150.00;
 - (ii) For the second violation of the same provision, \$300.00; and
 - (iii) For the third violation of the same provision, \$1,000.00.
 - (2) Revoke the rental license;
 - (3) If the city manager finds that a short-term rental license was issued to a licensee who is determined not to comply with subsections (1), (2) or (3) of section 10-3-19(c), "Short Term Rentals," B.R.C. 1981, the city manager shall revoke the short term rental license;
 - (4) If the city manager finds that an Affordable Accessory Unit was advertised, offered for rent or rented for an amount in excess of the affordability standard, the city manager shall revoke the rental license and impose a penalty equal to the amount charged in excess of the affordability standard during the term of the license, plus interest at the rate of twelve percent per annum; and
 - (54) 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 operator at least forty-eight hours before the time and date set forth in the notice of hearing on any violation that the violation has been corrected,

the manager will reinspect the building. If the manager finds that the violation has been corrected, the manager may cancel the hearing.

- (c) 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.
- (d) 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.
- (e) To cover the costs of investigative inspections, the city manager will assess operators a \$250.00 fee per inspection, where the city manager performs an investigative inspection to ascertain compliance with or violations of this chapter.
- (f) The city manager shall not accept a new application from the same licensee for the same dwelling unit or units after revocation of a license:
 - (1) For at least six months following the revocation; and
 - (2) Unless the applicant demonstrates compliance with all licensing requirements.

Section 13. 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;
 - (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 sworn statement that the dwelling unit to be licensed is the applicant's principal residence;
 - (2) If the applicant is a trust, a sworn statement that the 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 dwelling unit is an accessory unit, only the accessory unit and not any other dwelling unit on the same property may be licensed or used as a rental;~~
- ~~(e) If a dwelling unit is licensed for short-term rental, then no accessory unit on the same property may be licensed or used as a rental;~~
- ~~(f)~~ (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;
- ~~(g)~~ (e) The city manager shall not issue a license for short-term rental of a permanently affordable dwelling unit.
- ~~(h)~~ (f) Short-term rentals shall not be subject to the inspection requirements of Section 10-3-3(a)(1)(A), "Licenses," B.R.C. 1981, except as set forth in subsection (k):
- ~~(1) Accessory Units, permitted under Section 9-6-3(a), "Accessory Units," B.R.C. 1981 if such Accessory unit is in an Accessory Structure, as that term is defined in Section 9-16-1, "General Definitions," B.R.C. 1981.~~
- ~~(i) An accessory unit may not be rented as a short term rental for more than one hundred twenty days in any calendar year.~~
- ~~(j)~~ (g) 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; provided, however, for the purposes of this section only, the licensee and people related to the licensee shall be counted as one person. ~~The occupancy of any accessory unit shall be limited to a family or two unrelated persons;~~
- ~~(k) Notwithstanding the provisions of Section 10-2-2, "Adoption of the International Property Maintenance Code with Modifications," B.R.C. 1981, Appendix C, effective January 2, 2019, the energy efficiency requirements set forth in Section 10-2-2, Appendix C section shall apply to Accessory Units, permitted under Section 9-6-3(a), "Accessory Units," B.R.C. 1981 if such Accessory unit is in an Accessory Structure, as that term is defined in Section 9-16-1, "General Definitions," B.R.C. 1981.~~
- ~~(h)~~ (h) 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.

- (m) No person shall advertise a short-term rental, unless the advertisement includes the license number and the maximum unrelated occupancy permitted in the unit.
- (n) The city manager shall not issue more than one short term rental license to any applicant.
- (k) An accessory unit or a principal dwelling unit on a single-family lot or parcel with an accessory unit may not be rented as a short-term rental unless all of the following requirements are met:
- (1) A current and valid short-term rental license exists for the unit.
 - (2) If the accessory unit is licensed for short-term rental, only the accessory unit and not any other dwelling unit on the same property may be a licensed or used as a rental.
 - (3) If a principal dwelling unit is licensed for short-term rental, then no accessory unit on the same property may be licensed or used as a rental.
 - (4) An accessory unit may not be rented as a short-term rental for more than one hundred twenty days in any calendar year.
 - (5) Notwithstanding the provisions of subsection (g), the occupancy of the accessory unit and the principal dwelling unit must meet the requirements of Subsection 9-6-3(a)(1), B.R.C. 1981.
 - (6) Licensing Limitations and Requirements:
 - (A) No application for a new short-term rental license shall be accepted after June 22, 2018. After June 22, 2018, a new short-term rental license may be issued only for complete applications received by the city manager on or before June 22, 2018. After June 22, 2018, the city manager may renew unexpired short-term rental licenses pursuant to Section 10-3-7, "License Renewal Procedures," B.R.C. 1981. A license for which a complete renewal application is not filed within ninety days from the expiration date, shall be considered expired.
 - (B) An applicant for a short-term rental license for a detached accessory dwelling unit, as that term is defined in Section 9-16-1, "General Definitions," B.R.C. 1981, must submit an inspection report for the accessory structure containing the unit consistent with the requirements of Section 10-3-3(a)(1)(A), "Licenses," B.R.C. 1981.
 - (C) Notwithstanding the provisions of Section 10-2-2, "Adoption of the International Property Maintenance Code with Modifications," B.R.C. 1981, Appendix C, effective January 2, 2019, the energy efficiency requirements set forth in Section 10-2-2, Appendix C shall apply to detached accessory dwelling units, as that term is defined in Section 9-16-1, "General Definitions," B.R.C. 1981, that are licensed for short-term rental.

Section 14. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city and covers matters of local concern.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
TITLE ONLY this 22nd day of May 2018.

Attest:

READ ON SECOND READING, PASSED AND ADOPTED, this 29th day of August 2018.

Attest:

- 21 -

ORDINANCE 8256

AN ORDINANCE AMENDING STANDARDS FOR ACCESSORY DWELLING UNITS AND OWNER ACCESSORY UNITS INCLUDING SECTION 4-20-43, "DEVELOPMENT APPLICATION FEES," TITLE 9, "LAND USE CODE," AND SECTION 10-3-19, "SHORT-TERM RENTALS," B.R.C. 1981, 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:

...

Kitchen means any part of a room or dwelling unit that can be used for the preparation of food that includes one or more of the following: a refrigerator, cooking device, ~~food storage cabinet,~~ kitchen sink, or dishwasher. The following do not constitute a kitchen under this definition: (1) a wet bar; or (2) an ancillary refrigerator that is used solely to store food that is prepared in the kitchen of a principal dwelling unit.

...

Section 2. Section 4-20-43, "Development Application Fees," B.R.C. 1981, is amended and subsequent paragraphs shall be renumbered, to read as follows:

...

- (b) Land use regulation fees:

...

(11) An applicant for an attached accessory dwelling unit permit shall pay \$420.00

~~(12) An applicant for the transfer of an accessory dwelling unit shall pay \$168.00~~

(12~~3~~) An applicant for an ~~owner's detached~~ accessory dwelling unit shall pay \$420.00

~~(14) An applicant for the transfer of an owner's accessory unit shall pay \$168.00~~

(13~~5~~) An applicant for a limited accessory unit shall pay \$420.00

(16) An applicant for the transfer of a limited accessory unit shall pay \$168.00

...

Section 3. Section 9-2-3, "Variances and Interpretations," B.R.C. 1981, is amended to read as follows:

9-2-3. – Variances and Interpretations.

...

(d) Board of Zoning Adjustment (BOZA): The BOZA may grant variances from the requirements of:

- (1) Setback, separation and bulk plane requirements listed in Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, and standards referred to in that section;
- (2) The building coverage requirements of Section 9-7-11, "Maximum Building Coverage," and chapter 9-10, "Nonconformance Standards," B.R.C. 1981;
- (3) The spacing requirements for mobile homes of Section 9-7-13, "Mobile Home Park Form and Bulk Standards," B.R.C. 1981;
- (4) The porch setback and size requirements of Section 9-7-4, "Setback Encroachments for Front Porches," B.R.C. 1981;
- (5) The side yard wall articulation standards of Section 9-7-10, "Side Yard Wall Articulation Standards," B.R.C. 1981;
- (6) The size ~~and parking setback~~ requirements for accessory units of Subsection 9-6-3(a), B.R.C. 1981;
- (7) The total cumulative building coverage requirements for accessory buildings of Section 9-7-8, "Accessory Buildings in Residential Zones," B.R.C. 1981;
- (8) The use of a mobile home for nonresidential purposes subject to the requirements of Subsection 10-12-6(b), B.R.C. 1981;
- (9) The parking requirements of Subsection 9-9-6(d), B.R.C. 1981, with regards to parking in landscaped front yard setbacks; and
- (10) Sign code variances and appeals as permitted by Subsection 9-9-21(s), B.R.C. 1981.

In granting any variance, the board may attach such reasonable conditions and safeguards as it deems necessary to implement the purposes of this title.

...

(i) Floor Area Variances for Accessory ~~Dwelling~~ Units: The BOZA may grant a variance to the maximum floor area allowed for an attached accessory dwelling unit or for a detached accessory dwelling unit under Subsection 9-6-3(a), B.R.C. 1981, only if it finds that the application satisfies all of the following applicable requirements of either subparagraph (j)(1) or (j)(2):

- (1) House Configuration:

(A) That the interior configuration of the ~~house structure~~ is arranged in such a manner that the space to be used as the attached accessory dwelling unit or detached accessory dwelling unit cannot feasibly be divided in conformance with the size requirements;

(2B) That the variance, if granted, meets the essential intent of this title, and would be the minimum variance that would afford relief; and

(3C) That the strict application of the provisions at issue would impose an undue and unnecessary hardship on the individual and that such hardship has not been created by the applicant; or

(2) Unusual Physical Conditions:

(A) That there are unusual physical circumstances or conditions in the design of the existing structure the accessory unit would be in, including without limitation the thickness of exterior walls or framing, that affect the total allowed interior floor area of the accessory unit;

(B) That the unusual circumstances or conditions do not exist through the neighborhood or the zoning district in which the property is located;

(C) That the variance, if granted, would not alter the essential character of the neighborhood or zoning district the property is in;

(D) That the variance, if granted, would be the minimum variance that would afford relief; and

(E) That the accessory unit would be clearly incidental to the principal dwelling unit.

...

Section 4. That portion of Table 6-1 in Section 9-6-1, "Schedule of Permitted Land Uses,"

B.R.C. 1981, related to accessory units, is amended to read as follows:

TABLE 6-1: USE TABLE

Zoning District	RR-1, RR-2, RE, RL-1	RL-2, RM-2	R M-1, R M-3	RM X-1	R M X-2	RH -1, RH -2, RH -4, RH -5	RH -3, RH -7	R H-6	M H	MU -3	MU -1	MU -2	M U-4	BT-1, BT-2	B M S	BC -1, BC -2	BC S	BR -1, BR -2	DT -4	DT -5	DT-1, DT-2, DT-3	IS-1, IS-2	IG	IM	IMS	P	A	
Use Modules	R1	R2	R3	R4	R5	R6	R7	R 8	M H	M1	M2	M3	M4	B1	B 2	B3	B4	B5	D1	D2	D3	I1	I2	I3	I4	P	A	Speci fic Use Stan dard
Accessory units:																												
<u>A. Attached accessory</u>	C	C	*	<u>ⓈC</u>	<u>ⓈC</u>	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	C	C	9-6-3(a)

9-6-3. – Specific Use Standards – Residential Uses.

(a) Accessory Units:

- (1) General Requirements: Three types of accessory units are permitted: Attached Accessory Dwelling Units, ~~Owner's Detached~~ Accessory Dwelling Units, and Limited Accessory Units. The following standards apply to all three types of accessory units:

(A) Standards:

- (i) ~~Owner-Occupied: The owner of the property must reside in one of the permitted principal dwelling units or accessory unit on the site parcel or lot must be owner-occupied.~~
- (ii) ~~Occupancy Requirement: The occupancy of any accessory unit must not exceed two persons. For purposes of determining occupancy requirements under Section 9-8-5, "Occupancy of Dwelling Units," B.R.C. 1981, the principal dwelling unit and accessory unit shall be considered one dwelling unit. The occupancy of the owner-occupied principal dwelling unit together with the occupancy of any accessory unit does shall not exceed the occupancy requirements set forth in Section 9-8-5, "Occupancy of Dwelling Units," B.R.C. 1981, for one dwelling unit; provided, however, for purposes of this section only, the owner and the owner's 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 unit.~~
- (iii) ~~Additional Roomers Prohibited: The property is not also used for the renting of rooms pursuant to Paragraph 9-8-5(a)(1), B.R.C. 1981.~~

(iii) Rental License: No owner of the property shall allow, or offer to allow through advertisement or otherwise, any person to occupy the accessory unit or the principal dwelling unit as a tenant or lessee or otherwise for a valuable consideration unless such rented unit has been issued a valid rental license by the city manager consistent with the requirements of Chapter 10-3, "Rental Licenses," B.R.C. 1981.

(iv) Short-term Rental: Short-term rental of an accessory unit and short-term rental of a principal dwelling unit on a lot or parcel with an accessory unit are prohibited except as specifically authorized in Section 10-3-19, "Short-term Rentals," B.R.C. 1981.

(B) Application: All applicants shall apply on forms provided by the city manager showing how and in what manner the criteria of this subsection are met, provide a statement of current ownership and a legal description of the property, pay the application fee prescribed by Section 4-20-43, "Development Application Fees," B.R.C. 1981, and submit plans as may be required by the manager.

(C) Public Notice: Notice of the application shall be provided consistent with "Public Notice Type 4," as defined by Subsection 9-4-3(a), B.R.C. 1981.

(D) Review and Approval: All applications for accessory units shall be reviewed under the procedures of Section 9-2-2, "Administrative Review Procedures." B.R.C. 1981.

(E) Declaration of Use Required: ~~Before receiving the permit~~obtaining approval, all owners shall sign a declaration of use, including all the conditions for continued use, to be recorded in the office of the Boulder County Clerk and Recorder to serve as actual and constructive notice of the legal status of the owner's property. If the unit is to be an affordable accessory unit, the declaration shall include a sworn certification that the unit will meet the affordability standard and a statement of the number of bedrooms.

(F) Conversion of Affordable Accessory Units. An affordable accessory unit may be converted to an accessory unit that is not an affordable accessory unit provided that an application for an accessory unit is filed and reviewed by the manager under the procedures of Section 9-2-2, "Administrative Review Procedures," B.R.C. 1981. The application must demonstrate that the proposed accessory unit meets the requirements of this section.

~~Expiration and Revocation of Permit: An accessory unit permit granted by the city manager or planning board automatically expires 180 days after the date on which it is granted unless a rental license for the unit is obtained within such period. The manager may grant an extension of this period for good cause shown, but only if application therefor is made prior to the expiration of the period. After revocation or expiration of the accessory unit permit, the manager will inspect the property to ensure that the accessory unit has been removed.~~

~~(i) Expiration: An accessory unit permit expires upon the failure of the permittee to satisfy any condition prescribed by this Subsection (a) or upon the sale, conveyance, or transfer of the property upon which the unit is located.~~

(ii) ~~Revocation: An accessory unit permit may be revoked by the city manager upon the permittee's or the permittee's tenant's conviction of a violation of this title or any provision of chapter 5-9, "Noise," Section 6-1-21, "Animals as Nuisance Prohibited," chapter 6-2, "Weed Control," chapter 6-3, "Trash," or Section 9-9-21, "Signs," B.R.C. 1981.~~

(iii) ~~Removal Required: Upon notification of permit expiration or revocation, the permittee may request a hearing as provided in chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981. Within thirty days of revocation or expiration of a permit, no owner shall fail to remove the accessory unit and return the property to its single-family use status as a single dwelling unit. The applicant shall either:~~

a. ~~Remove the kitchen within the accessory unit and any physical separation between the accessory unit and the balance of the unit; or~~

b. ~~Remove any physical separation between the accessory unit and the balance of the unit and sign a declaration of use in a form acceptable to the city manager, which will be recorded with the Boulder County Clerk and Recorder, stating the property will remain owner-occupied for so long as the accessory unit kitchen remains and that the dwelling unit is used by the owner and the owner's family in a manner consistent with Section 9-8-5, "Occupancy of Dwelling Units," B.R.C. 1981. No person shall fail to remove the additional kitchen installed pursuant to this subsection if the dwelling unit is no longer owner-occupied and if the dwelling unit requires a rental license under chapter 10-3, "Rental Licenses," B.R.C. 1981.~~

(G) ~~Limitations on Reapplication After Revocation: Upon revocation of a permit, the owner may not reapply for an accessory dwelling unit permit for any location in the city for a period of three years following the date of revocation or conviction.~~

(H) ~~Transfer: An accessory dwelling unit permit may be transferred to the new owner of a dwelling unit that has an existing, approved accessory unit, if there is no person on the waiting list within the dwelling unit's neighborhood area. A new property owner may apply to transfer an accessory unit permit into its name if the following standards are met:~~

(i) ~~Proof of Ownership: The transfer applicant shall provide proof of ownership or of pending ownership of the dwelling unit.~~

(ii) ~~Declaration of Use Required: The transfer applicant shall sign a declaration of use, that will be recorded with the Boulder County Clerk and Recorder acknowledging that the accessory dwelling unit is not automatically transferable to subsequent purchasers, that no vested right to duplex status arises by virtue of the city's granting of the accessory dwelling unit permit or a building permit to construct the same, and that lists all the conditions for the continued use of the accessory dwelling unit.~~

(iii) ~~Rented or Occupied: The transfer applicant shall provide proof that the accessory dwelling unit has been rented or occupied in the year prior to the application for the transfer.~~

(iv) ~~Expiration: If a new owner fails to apply for a transfer of the permit within thirty days of the purchase of the dwelling unit, the permit shall automatically expire and the reestablishment of an accessory dwelling unit will require a new application.~~

(v) ~~Fees: The applicant shall pay the fee required by section 4-20-43, "Development Application Fees," B.R.C. 1981, and all necessary fees for recording documents with the Boulder County Clerk and Recorder.~~

(vi) ~~Rental License Required: The new owner shall apply for a rental license after the transfer of the accessory dwelling unit has been approved.~~

(2) Attached Accessory Dwelling Units: In addition to the general accessory unit standards in paragraph (a)(1) of this section, the following standards apply to attached accessory dwelling units. The owner or the owners of a lot or parcel with an existing single-family dwelling unit may establish and maintain an attached accessory dwelling unit within the principal structure of a detached dwelling unit in the RL-1, RL-2, RE, RR, RE-1, RR-2, RL, RMX, A or P districts if all of the following conditions are met and continue to be met during the life of the attached accessory dwelling unit:

(A) Neighborhood Area: In the RL-1 or, RL-2, RE, RR-1, RR-2, A or P zoning districts, no more than ten-twenty percent of the single-family lots or parcels in a neighborhood area contain an accessory dwelling-unit. For the purpose of this subparagraph:

(i) The "neighborhood area" in RL-1, and RL-2 and P-zoning districts is the area circumscribed by a line three hundred feet from the perimeter of the lot line within which any accessory dwelling-unit will be located. Within the "neighborhood area" only accessory units within the RL-1 and RL-2 zoning districts are counted towards the twenty percent limitation factor.

(ii) ~~The "neighborhood area" in RE, RR-1, RR-2 and A zoning districts is the area circumscribed by a line six hundred feet from the perimeter of the lot line within which any accessory dwelling unit will be located.~~

(iii) For the purpose of calculating the ten-twenty percent limitation factor, a legal, nonconforming structure containing two or more units or a limited-accessory cooperative housing unit is counted as an accessory dwelling-unit. The city manager may promulgate regulations defining additional methods to be used in calculating the ten-twenty percent limitation factor and the neighborhood area.

(iii~~v~~) If an application for an accessory dwelling-unit exceeds the ten-twenty percent requirement set forth in this subparagraph (a)(2)(A), the city manager will place the applicant on a waiting list for the neighborhood area. At such time as there is room for an additional accessory dwelling-unit within a neighborhood area, the city manager will notify the first eligible person on the waiting list. Such person on the waiting list shall be required to provide notice of intent to file an application within thirty days and file an application within sixty days of such notice.

- (B) ~~In addition to~~ The attached accessory dwelling unit shall have the following off-street parking:
- (i) The number of off-street parking spaces required in the zoning district for the principal dwelling unit; and
 - (ii) ~~parking required in each district~~ ~~One additional paved off-street parking space is provided on the lot or parcel upon which the detached dwelling unit is located.~~
 - (iii) The parking spaces required under this subparagraph (a)(2)(B) shall not be required to meeting the setback requirements of section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, provided that the parking spaces are not located in the public right of way unless a variance to the setback is granted pursuant to section 9-2-3, "Variances and Interpretations," B.R.C. 1981.
- (C) Criteria: The attached accessory dwelling unit is clearly incidental to the principal dwelling unit and meets the following criteria:
- (i) The attached accessory dwelling unit is created only in a single-family detached dwelling unit on a lot of ~~six~~ five thousand square feet or more.
 - (ii) The attached accessory dwelling unit ~~is a minimum of three hundred square feet, and~~ does not exceed one-third of the total floor area of the principal structure, ~~unless a variance is granted pursuant to section 9-2-3, "Variances and Interpretations," B.R.C. 1981, or one thousand square feet, whichever is less, unless a variance is granted pursuant to section 9-2-3, "Variances and Interpretations," B.R.C. 1981.~~
 - ~~(iii) The accessory dwelling unit utilizes only those utility hookups and meters allotted to the detached dwelling unit.~~
 - ~~(iv) The accessory dwelling unit is created only through internal conversion of the principal structure. Minor exterior changes may be made on the building if the square footage added constitutes no more than five percent of the principal structure's existing foundation area.~~
 - ~~(viii)~~ (viii) If there is an interior connection between the attached accessory dwelling unit and the principal dwelling prior to the creation of the attached accessory dwelling unit, the connection shall be maintained during the life of the attached accessory dwelling unit.
 - (iv) Any additional entrance resulting from the creation of an attached accessory dwelling unit may face the side of the lot fronting on the street only if such entrance is adequately and appropriately screened in a manner that does not detract from the single-family appearance of the principal dwelling.
- ~~(D) Permits for Existing Units: No permit for an accessory dwelling unit shall be granted for a detached dwelling that is not at least five years old.~~
- (D) Affordable Accessory Units. If the attached accessory dwelling unit is licensed as an affordable accessory unit, the unit shall only be required to provide the parking required in the zoning district for the principal dwelling unit and may be more than

one-third of the total floor area of the principal structure but shall not exceed one-half of the floor area of the principal structure or one thousand square feet, whichever is less. The BOZA may grant a variance to this size requirement pursuant to Section 9-2-3, "Variances and Interpretations," B.R.C. 1981. If the unit is or will be offered for rental for compensation, on or before April 1, 2019, the owner must obtain and at all times thereafter maintain a valid rental license for an affordable accessory unit issued by the city manager consistent with the requirements of Chapter 10-3, "Rental Licenses," B.R.C. 1981.

(E) Designated Historic Property. If the attached accessory dwelling unit is located within a principal structure that is designated as an individual landmark or recognized as contributing to a designated historic district under Chapter 9-11, "Historic Preservation," B.R.C. 1981, the following modifications to the standards of this paragraph (a)(2) apply:

- (i) In the RL-1 and RL-2 zoning district, the unit is not subject to the twenty percent limitation factor of subparagraph (a)(2)(A) provided that no more than thirty percent of the lots or parcels in the neighborhood area contain an accessory unit;
- (ii) The unit shall only be required to provide the parking required in the zoning district for the principal dwelling unit; and
- (iii) The unit may be more than one-third of the total floor area of the principal structure but shall not exceed one-half of the floor area of the principal structure or one thousand square feet, whichever is less. The BOZA may grant a variance to this size requirement pursuant to Section 9-2-3, "Variances and Interpretations," B.R.C. 1981.

~~(E) Accessory Unit Will Not Become a Nonconforming Use: If the provisions of this subsection are repealed by this or any future city council, the legal use of an accessory unit must be terminated within five years from the date of repeal, and the accessory unit will not become a nonconforming use.~~

~~(3) Limited Accessory Units: In addition to the general accessory unit standards in paragraph (a)(1) of this section, the following standards apply to limited accessory units. An existing nonconforming duplex or two detached dwelling units located on the same lot and within the R1 use module may be converted to limited accessory dwelling units. A limited accessory dwelling unit may be modified and expanded as a conditional use. Conversion to a limited accessory dwelling unit is subject to compliance with all of the following standards:~~

~~(A) Applicability: This subsection (a)(3) is only applicable to dwelling units that legally existed, were actively used as multiple dwelling units, and had a valid rental license on January 1, 2005.~~

~~(B) Expansion Limitation: The cumulative total of any expansion shall not exceed twenty percent of the total floor area that was documented at the time of the initial expansion. Any expansion of the restricted accessory unit shall not exceed ten percent. In no case shall any expansion cause the cumulative size of the restricted dwelling units to exceed the maximum allowable floor area ratio of the underlying~~

~~zoning district as set forth in Section 9-8-1, "Schedule of Intensity Standards," B.R.C. 1981.~~

~~(C) Parking: The minimum number of off street parking spaces shall not be less than three spaces. All parking shall comply with the design and access requirements set forth in Section 9-9-6, "Parking Standards," B.R.C. 1981. A minimum of one off-street parking space shall be available for use by the restricted accessory dwelling unit.~~

~~(D) Loss of Prior Nonconforming Status: If a nonconforming duplex or two detached dwelling units are converted to limited accessory units through the conditional use process, any prior nonconforming status is lost.~~

(34) Owner's Detached Accessory Dwelling Units: In addition to the general accessory unit standards in paragraph (a)(1) of this section, the following standards apply to owners' detached accessory dwelling units. An owner or the owners of a lot or parcel with an existing single-family dwelling unit may establish and maintain an owner's detached accessory dwelling unit within the principal structure of the detached dwelling unit, or within an accessory structure meeting the size restrictions described below, on a lot or parcel in the RR, RE, RL, and RMX-1, A and P districts if all of the following conditions are met and continue to be met during the life of the owner's detached accessory dwelling unit:

(A) Neighborhood Area: In the RL-1 and RL-2 zoning districts, no more than twenty percent of the lots or parcels in a neighborhood area contain an accessory unit. For the purpose of this subparagraph:

(i) The "neighborhood area" in RL-1 and RL-2 zoning districts is the area circumscribed by a line three hundred feet from the perimeter of the lot line within which an accessory unit will be located. Within the "neighborhood area" only accessory units within the RL-1 and RL-2 zoning districts are counted towards the twenty percent limitation factor.

(ii) For the purpose of calculating the twenty percent limitation factor, a legal, nonconforming structure containing two or more units or a cooperative housing unit is counted as an accessory unit. The city manager may promulgate regulations defining additional methods to be used in calculating the twenty percent limitation factor and the neighborhood area.

(iii) If an application for a detached accessory dwelling unit exceeds the twenty percent requirement set forth in subparagraph (a)(3)(A), the city manager will place the applicant on a waiting list for the neighborhood area. At such time as there is room for an additional accessory unit within the neighborhood area, the city manager will notify the first eligible person on the waiting list. Such person on the waiting list shall be required to provide notice of intent to file an application within thirty days and file an application within sixty days of such notice.

(AB) Parking: The detached accessory dwelling unit shall have the following parking:

(i) The number of off-street parking spaces required in the zoning district for the principal dwelling unit; and

(ii) ~~In addition to the parking required in each district, o~~ One additional paved off-street parking space is ~~provided on the lot or parcel~~ upon which the detached dwelling unit is located.

(iii) The parking spaces required under this subparagraph (a)(3)(B) shall not be required to meeting the setback requirements of Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, provided that the parking spaces are not located in the public right of way unless a variance to the setback is granted pursuant to Section 9-2-3, "Variances and Interpretations," B.R.C. 1981. To the extent practical, any additional off-street parking that is constructed in the RR or RE zoning district required for the ~~owner's detached~~ accessory dwelling unit shall be screened from the view of properties that directly abut a property line of the ~~owner's detached~~ accessory dwelling unit.

(~~BC~~) Incidental to Principal Dwelling Unit: The ~~owner's detached~~ accessory dwelling unit is clearly incidental to the principal dwelling unit and meets the following criteria:

(i) ~~The owner's detached accessory dwelling unit is created on a lot of six-five thousand square feet or larger, which contains only one detached single-family dwelling in the RMX zoning district. The owner's accessory unit is created on a lot that meets the minimum lot size requirements of the underlying zoning district in the RR or RE zoning districts and contains only one detached single-family dwelling.~~

(ii) ~~If the owner's accessory unit is located within the detached dwelling unit, the principal structure shall be at least one thousand five hundred square feet in size, excluding garage space.~~

(iii) ~~The owner's detached accessory dwelling unit does not exceed one-third of the total floor area of the principal structure, unless a variance is granted pursuant to Section 9-2-3, "Variances and Interpretations," B.R.C. 1981, or one thousand five hundred and fifty square feet, whichever is less, unless a variance is granted pursuant to Section 9-2-3, "Variances and Interpretations," B.R.C. 1981.~~

(iv) ~~If there is an interior connection between the owner's accessory unit and the principal dwelling prior to the creation of the owner's accessory unit, the connection shall be maintained during the life of the owner's accessory unit. Any additional entrance resulting from the creation of an owner's accessory unit, within the principal building, may face the side of the lot fronting on the street only if such entrance is adequately and appropriately screened in a manner that does not detract from the single-family appearance of the principal dwelling.~~

(iii) ~~v~~ The following design standards apply to owner's detached accessory dwelling units in a detached accessory structure:

a. ~~If garage doors are placed on the unit, they shall be single-car doors (no two-car wide doors).~~

b. ~~All units shall be designed to have a pitched roof of 6:12 or greater. No flat roofs or lower pitched roofs shall be permitted unless consistent with the architecture of the existing house on the property.~~

ea. Maximum height of accessory buildings with an owner's detached accessory dwelling unit shall not be greater than twenty feet unless the roof pitch is greater than 8:12 and the resulting ratio of the height of the roof (measured from the eave line to the top of the roof) to the height of the side walls (measured from the low point of grade to the eave line) is less than a 1:2 ratio. In no case may a building be taller than twenty-five feet.

db. ~~An owner's detached~~ accessory dwelling unit shall have a minimum of sixty square feet of private open space provided for the exclusive use of the occupants of the ~~owner's detached~~ accessory dwelling unit. Private open space may include porches, balconies or patio areas. Decks, porches, patios, terraces and stairways, located at a height greater than thirty inches above grade, shall be considered part of the building coverage.

ec. Architectural design and materials shall be consistent with the existing residence on the site or the adjacent building(s) along the side yards of the lot.

fd. Setbacks shall comply with accessory building setbacks. Where the rear yard of a property in the RR or RE zoning district directly abuts an RL zoning district, the rear yard accessory building setback shall be the same as the side yard setback for accessory buildings for applicable RR or RE zoning districts.

g. ~~The owner's accessory unit is in a building that has a building coverage of less than five hundred square feet and the owner's accessory unit does not exceed four hundred fifty square feet of floor area.~~

~~(C) Variance of Building Coverage: The city manager may grant a variance to the building coverage requirements of Subparagraph (a)(4)(B)(v)g of this section upon finding that the following conditions are met:~~

~~(i) The owner's accessory unit is created in a building that was legally in existence prior to June 3, 1997; and~~

~~(ii) A reduction in the building footprint size of the existing building to conform to the five hundred square foot limitation would create a substantial hardship for the applicant.~~

(D) Affordable Accessory Units. If the detached accessory dwelling unit is licensed as an affordable accessory unit, the unit shall only be required to provide the parking required in the zoning district for the principal dwelling unit and may be more than one-third of the total floor area of the principal structure but shall not exceed one-half of the floor area of the principal structure or eight hundred square feet, whichever is less. The BOZA may grant a variance to this size requirement pursuant to Section 9-2-3, "Variances and Interpretations," B.R.C. 1981. If the unit is or will be offered for rental for compensation, on or before April 1, 2019, the owner must obtain and at all times thereafter maintain a valid rental license for

an affordable accessory unit issued by the city manager consistent with the requirements of Chapter 10-3, "Rental Licenses," B.R.C. 1981.

(E) Designated Historic Property. If the detached accessory dwelling unit is located within an accessory structure that is designated as an individual landmark or within a designated historic district under Chapter 9-11, "Historic Preservation," B.R.C. 1981, the following modifications to the standards of this paragraph (a)(3) apply:

(i) In the RL-1 and RL-2 zoning district, the unit is not subject to the twenty percent limitation factor of subparagraph (a)(3)(A) provided that no more than thirty percent of the lots or parcels in the neighborhood area contain an accessory unit;

(ii) The unit shall only be required to provide the parking required in the zoning district for the principal dwelling unit; and

(iii) If the structure the unit is located in is designated as an individual landmark or recognized as contributing to the historic district, the unit may be more than one-third of the total floor area of the principal structure but shall not exceed one-half of the floor area of the principal structure or one thousand square feet, whichever is less. The BOZA may grant a variance to this size requirement pursuant to Section 9-2-3, "Variances and Interpretations," B.R.C. 1981.

(4) Limited Accessory Units: In addition to the general accessory unit standards in paragraph (a)(1) of this section, the following standards apply to limited accessory units. An existing nonconforming duplex or two detached dwelling units located on the same lot and within the R1 use module may be converted to limited accessory dwelling units. A limited accessory dwelling unit may be modified and expanded as a conditional use. Conversion to a limited accessory dwelling unit is subject to compliance with all of the following standards:

(A) Applicability: This subsection (a)(3) is only applicable to dwelling units that legally existed, were actively used as multiple dwelling units, and had a valid rental license on January 1, 2005.

(B) Expansion Limitation: The cumulative total of any expansion shall not exceed twenty percent of the total floor area that was documented at the time of the initial expansion. Any expansion of the restricted accessory unit shall not exceed ten percent. In no case shall any expansion cause the cumulative size of the restricted dwelling units to exceed the maximum allowable floor area ratio of the underlying zoning district as set forth in Section 9-8-1, "Schedule of Intensity Standards," B.R.C. 1981.

(C) Parking: The minimum number of off-street parking spaces shall not be less than three spaces. All parking shall comply with the design and access requirements set forth in Section 9-9-6, "Parking Standards," B.R.C. 1981. A minimum of one off-street parking space shall be available for use by the restricted accessory dwelling unit.

(D) Loss of Prior Nonconforming Status: If a nonconforming duplex or two detached dwelling units are converted to limited accessory units through the conditional use process, any prior nonconforming status is lost.

...
Section 6. 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: 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 one or two roomers. The quarters that 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 persons in P, A, RR, RE, and RL zones;
- (3) Up to four persons in MU, RM, RMX, RH, BT, BC, BMS, BR, DT, IS, IG, IM, and IMS zones; or
- (4) Two persons and any of their children by blood, marriage, guardianship, including foster children, or adoption.

(b) Attached Accessory Dwelling Unit, Owner's Detached Accessory Dwelling Unit, or Limited Accessory Dwelling Unit: The occupancy of an attached accessory dwelling unit, ~~owner's detached~~ accessory dwelling unit, or limited accessory dwelling unit must meet the requirements of Subsection 9-6-3(a), B.R.C. 1981.

(c) Nonconformity: 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 use, 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 four 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) 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. All such dwelling units shall be limited to no fewer than four occupants with the maximum number of occupants, without regard to whether the occupants are related or not, as follows:

(1) In the Rural Residential, Residential Estate and Residential Low Density 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;

(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.

(e) Prohibition: No person shall occupy a dwelling unit in violation of this section or intentionally or negligently misrepresent the permitted occupancy of a dwelling unit in violation of this section.

Section 7. That portion of Table 9-2 in Section 9-9-6, "Parking Standards," B.R.C. 1981, related to parking requirements for accessory dwelling units and owner accessory units is amended to read as follows:

TABLE 9-2: USE SPECIFIC MOTOR VEHICLE PARKING REQUIREMENTS FOR RESIDENTIAL USES IN ALL ZONES

<i>Use</i>	<i>Parking Requirement</i>
...	
<u>Attached accessory dwelling unit, owner's — detached accessory dwelling unit</u>	1 space, paved, in addition to <u>The off-street parking requirement for the principal DU must be met, plus any parking space required for the accessory unit, see Section 9-6-3(a), B.R.C. 1981.</u>
...	

1 Section 8. Section 9-14-2, "General Provisions," B.R.C. 1981, is amended to read as
2 follows:

3 **9-14-2. – General Provisions.**

4 A system of managing the issuance of residential building permits in the city is established with
5 the following general provisions:

6 ...

7 (b) Allocations Needed: One allocation is needed to secure a building permit to construct each
8 dwelling unit, except as set forth below. The living quarters set forth below shall require:

9 (1) One-half allocation for an efficiency living unit; one-third allocation for a group
10 residence; and one-sixth allocation or one-eighth allocation for each occupant for a
11 group care facility or a residential care facility respectively, according to the density and
12 occupancy restrictions of subsection 9-6-3(f), B.R.C. 1981;

13 (2) One-fifth allocation for accommodations without kitchens or one-third allocation for
14 attached allocations for congregate care facilities, according to the density and
15 occupancy restrictions of section 9-8-6, "Occupancy Equivalencies for Group
16 Residences," B.R.C. 1981;

17 (3) One allocation for any other type of dwelling unit;

18 (4) No allocation for an attached accessory dwelling unit, ~~an owner's detached~~ accessory
19 dwelling unit, a bed and breakfast, a hostel, a hotel or a motel.

20 ...

21 Section 9. Section 9-16-1, "General Definitions," B.R.C. 1981, is amended to read as
22 follows:

23 **9-16-1. – General Definitions.**

24 ...

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

...

Affordable accessory unit means a unit for which the rents meet the affordability standard.

Affordability standard means rents do not exceed the maximum rents established by the
Colorado Housing and Finance Authority or similar agency for households earning no more than
seventy-five percent of the area median income. The city manager shall publish a table setting
forth the maximum rents based on information provided by the Colorado Housing and Finance
Authority or its similar agency.

...

1 Attached accessory dwelling unit means a separate and complete single housekeeping unit
 2 within a detached dwelling unit, permitted under the provisions of Subsection 9-6-3(a), B.R.C.
 3 1981.

4 Housekeeping unit means one room or rooms with internal connections for separate
 5 residential occupancy and including bathroom and kitchen facilities. Multiple housekeeping units
 6 exist if there is more than one address to the property or more than one kitchen; or if there are
 7 separate entrances to rooms which could be used as separate housekeeping units; or if there is a
 8 lockable, physical separation between rooms in a dwelling unit such that a room or rooms on each
 9 side of the separation could be used as a housekeeping unit or rooms with no internal connections.

10 Kitchen means any part of a room or dwelling unit that can be used for the preparation of
 11 food that includes one or more of the following: a refrigerator, cooking device, kitchen sink, or
 12 dishwasher. The following do not constitute a kitchen under this definition: (1) a wet bar; or (2)
 13 an ancillary refrigerator that is used solely to store food that is prepared in the kitchen of a
 14 principal dwelling unit.

15 Owner-occupied means a dwelling unit or accessory unit that is actually and physically
 16 occupied as a the principal residence by of at least one owner of record of the lot or parcel upon
 17 which the dwelling unit or accessory unit is located, who possesses at least an estate for life or a
 18 fifty percent fee simple ownership interest or is the trustor of a revocable living trust.

19 ~~Owner's~~ Detached accessory dwelling unit means a separate and complete single
 20 housekeeping unit which is accessory within an accessory structure to the principal dwelling
 21 unit owner's occupancy of the lot or parcel upon which the unit is located that is permitted under
 22 the provisions of p Paragraph 9-6-3 (a)(34), B.R.C. 1981.

23 Principal residence means the dwelling unit in which a person resides for more than one-
 24 half of the year. However, if (1) the person owns another dwelling unit that is not licensed for
 25 long term rental; (2) the person's spouse or domestic partner has a different principal residence;
 26 (3) the person's driver's license, voter registration or any dependent's school registration shows a
 27 different residence address, or (4) the Boulder County Assessor lists a mailing address different
 28 from the dwelling unit address, it shall be presumed that the dwelling unit in question is not a
 29 principal residence. Provided, however, no presumption shall apply in any criminal proceeding.

30 Wet bar means a bar for mixing drinks that may contain a sink with running water, a
 31 dishwasher, and a refrigerator but no other facilities that can be used for the preparation of food
 32 other than mixing drinks. A sink in a wet bar must be smaller than a kitchen sink, as defined in
 33 Section 10-2-2, B.R.C. 1981.

Section 10. Section 10-2-2, "Adoption of International Property Maintenance Code with Modifications," B.R.C. 1981, Appendix C, Section C101.1 Scope, is amended to read as follows:

10-2-2.-Adoption of International Property Maintenance Code with Modifications.

...

**APPENDIX C
ENERGY EFFICIENCY REQUIREMENT
EXISTING RESIDENTIAL RENTAL STRUCTURES
ENERGY CONSERVATION**

C101

SCOPE

C101.1 Scope. Appendix C sets standards for residential rental dwelling unit energy efficiency. Effective January 2, 2019, the energy efficiency requirements of this section shall apply to all residential rental dwelling units licensed according to Chapter 10-3, "Rental Licenses," B.R.C. 1981, except:

1. Buildings that can be verified as meeting or exceeding the energy efficiency requirements of the Energy Conservation Code, Chapter 10-7, B.R.C. 1981; and
2. Any manufactured home; and
3. ~~Attached Accessory accessory Dwelling dwelling Units units and Attached Owner Accessory Units~~ as detailed in Section 9-6-3, "Specific Use Standards Residential Uses," B.R.C. 1981.

...

Section 11. Section 10-3-6, "License Application Procedure for Buildings Converted to Rental Property," B.R.C. 1981, is amended to read as follows:

10-3-6. - License Application Procedure for Buildings Converted to Rental Property.

Every operator converting a property to rental property shall follow the procedures in this section for procuring a rental license:

- (a) Submit a complete application packet for a license to the City, on official city forms provided for that purpose, at least thirty days before rental of the property including:
 - (1) A rental housing inspector's certification of baseline inspection dated within twelve months before the application. The operator shall make a copy of the inspection form available to city staff and tenants of inspected units within fourteen days of a request; and

- (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. (b) Pay all license fees prescribed by Section 4-20-18, "Rental License Fee," B.R.C. 1981, at the time of submitting the license application. The city manager shall not issue any rental license if the operator owes any fees or penalties, unless the penalties are subject to a pending appeal. (c) Take all reasonable steps to notify any occupants of the property in advance 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; and
- (4) If the unit is an affordable accessory unit as defined in Section 9-16-1, "Definitions," B.R.C. 1981, a sworn certification that the unit will meet the rental affordability standard as defined in Section 9-16-1 "Definitions," B.R.C. 1981.

Section 12. Section 10-3-7, "License Renewal Procedure for Buildings Occupied as Rental Property," B.R.C. 1981, is amended to read as follows:

10-3-7. - License Renewal Procedure for Buildings Occupied as Rental Property.

Every operator of a rental property shall follow the procedures in this section when renewing an unexpired license:

- (a) Pay all license fees prescribed by Section 4-20-18, "Rental License Fee," B.R.C. 1981, before the expiration of the existing license. The city manager shall not issue any rental license if the operator owes any fees or penalties, unless the penalties are subject to a pending appeal.
- (b) Submit to the city manager a complete application packet, on forms provided by the manager including:
 - (1) A rental housing inspector's certification of renewal inspection within twelve months before application. The operator shall make a copy of the inspection form available to city staff and tenants 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; and
 - (4) If the unit is an affordable accessory unit as defined in Section 9-16-1, "Definitions," B.R.C. 1981, a sworn certification that the unit will meet the rental affordability standard as defined in Section 9-16-1, "Definitions," B.R.C. 1981.
- (c) Take all reasonable steps to notify in advance all tenants 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.

Section 13. Section 10-3-16, "Administrative Remedy," B.R.C. 1981, is amended to read as follows:

10-3-16. - 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 any violation in the following areas: The area south of Arapahoe Avenue, north of Baseline Road, east of 6-th Street and west of Broadway, the area south of Baseline Road, north of Table Mesa Drive, east of Broadway and west of U.S. Route 36 and the area south of Canyon Boulevard, north of Arapahoe Avenue, west of Folsom Street and east of 15th Street:

(i) For the first violation of the provision, \$500.00;

(ii) For the second violation of the same provision, \$750.00; and

(iii) For the third violation of the same provision, \$1,000.00;

(B) For a violation in any other area:

(i) For the first violation of the provision, \$150.00;

(ii) For the second violation of the same provision, \$300.00; and

(iii) For the third violation of the same provision, \$1,000.00.

(2) Revoke the rental license;

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

(4) If the city manager finds that an affordable accessory unit was advertised, offered for rent or rented for an amount in excess of the affordability standard, the city manager shall impose a penalty equal to the amount charged in excess of the affordability standard during the term of the license, plus interest at the rate of twelve percent per annum; and

(54) 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 operator at least forty-eight hours before the time and date set forth in the notice of hearing on any violation that the violation has been corrected, the manager will reinspect the building. If the manager finds that the violation has been corrected, the manager may cancel the hearing.

- (c) 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.
- (d) 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.
- (e) To cover the costs of investigative inspections, the city manager will assess operators a \$250.00 fee per inspection, where the city manager performs an investigative inspection to ascertain compliance with or violations of this chapter.
- (f) The city manager shall not accept a new application from the same licensee for the same dwelling unit or units after revocation of a license:
 - (1) For at least six months following the revocation; and
 - (2) Unless the applicant demonstrates compliance with all licensing requirements.

Section 14. 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;
 - (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 sworn statement that the dwelling unit to be licensed is the applicant's principal residence;
 - (2) If the applicant is a trust, a sworn statement that the 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 dwelling unit is an accessory unit, only the accessory unit and not any other dwelling unit on the same property may be licensed or used as a rental;~~
- ~~(e) If a dwelling unit is licensed for short term rental, then no accessory unit on the same property may be licensed or used as a rental;~~
- ~~(fd)~~ 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;
- ~~(ge)~~ The city manager shall not issue a license for short-term rental of a permanently affordable dwelling unit.
- ~~(hf)~~ Short-term rentals shall not be subject to the inspection requirements of Section 10-3-3(a)(1)(A), "Licenses," B.R.C. 1981, except as set forth in subsection (k):
- ~~(1) Accessory Units, permitted under Section 9-6-3(a), "Accessory Units," B.R.C. 1981 if such Accessory unit is in an Accessory Structure, as that term is defined in Section 9-16-1, "General Definitions," B.R.C. 1981.~~
- ~~(i) An accessory unit may not be rented as a short term rental for more than one hundred twenty days in any calendar year.~~
- ~~(jg)~~ 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; provided, however, for the purposes of this section only, the licensee and people related to the licensee shall be counted as one person. ~~The occupancy of any accessory unit shall be limited to a family or two unrelated persons;~~
- ~~(k) Notwithstanding the provisions of Section 10-2-2, "Adoption of the International Property Maintenance Code with Modifications," B.R.C. 1981, Appendix C, effective January 2, 2019, the energy efficiency requirements set forth in Section 10-2-2, Appendix C section shall apply to Accessory Units, permitted under Section 9-6-3(a), "Accessory Units," B.R.C. 1981 if such Accessory unit is in an Accessory Structure, as that term is defined in Section 9-16-1, "General Definitions," B.R.C. 1981.~~
- ~~(h)~~ 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.
- ~~(mi)~~ No person shall advertise a short-term rental, unless the advertisement includes the license number and the maximum unrelated occupancy permitted in the unit.
- ~~(nj)~~ The city manager shall not issue more than one short term rental license to any applicant.

(k) An accessory unit or a principal dwelling unit on a single-family lot or parcel with an accessory unit may not be rented as a short-term rental unless all of the following requirements are met:

- (1) A current and valid short-term rental license exists for the unit.
- (2) If the accessory unit is licensed for short-term rental, only the accessory unit and not any other dwelling unit on the same property may be licensed or used as a rental.
- (3) If a principal dwelling unit is licensed for short-term rental, then no accessory unit on the same property may be licensed or used as a rental.
- (4) An accessory unit may not be rented as a short-term rental for more than one hundred twenty days in any calendar year.
- (5) Notwithstanding the provisions of subsection (g), the occupancy of the accessory unit and the principal dwelling unit must meet the requirements of Subsection 9-6-3(a)(1), B.R.C. 1981.

(6) Licensing Limitations and Requirements:

- (A) No application for a new short-term rental license shall be accepted after March 31, 2019. After March 31, 2019, a new short-term rental license may be issued only for complete applications received by the city manager on or before March 31, 2019. After March 31, 2019, the city manager may renew unexpired short-term rental licenses pursuant to Section 10-3-7, "License Renewal Procedures," B.R.C. 1981. A license for which a complete renewal application is not filed within ninety days from the expiration date shall be considered expired.
- (B) An applicant for a short-term rental license for a detached accessory dwelling unit, as that term is defined in Section 9-16-1, "General Definitions," B.R.C. 1981, must submit an inspection report for the accessory structure containing the unit consistent with the requirements of Section 10-3-3(a)(1)(A), "Licenses," B.R.C. 1981.
- (C) Notwithstanding the provisions of Section 10-2-2, "Adoption of the International Property Maintenance Code with Modifications," B.R.C. 1981, Appendix C, effective January 2, 2019, the energy efficiency requirements set forth in Section 10-2-2, Appendix C shall apply to detached accessory dwelling units, as that term is defined in Section 9-16-1, "General Definitions," B.R.C. 1981, that are licensed for short-term rental.

Section 14. This ordinance shall become effective on April 1, 2019. It shall be applied to applications submitted on or after the effective date. Applications submitted before the effective date shall be considered under the standards in effect at the time of application.

Section 15. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city and covers matters of local concern.

Suzanne Jones
Mayor

Lynnette Beck
City Clerk

Suzanne Jones
Mayor

Lynnette Beck
City Clerk

1 READ ON THIRD READING, AMENDED AND PASSED, this 2nd day of October 2018.

2
3
4 _____
Suzanne Jones
Mayor

5 Attest:

6
7 _____
Lynnette Beck
City Clerk

8
9 READ ON FOURTH READING, PASSED AND ADOPTED, this 16th day of October
10 2018.

11
12
13 _____
Suzanne Jones
Mayor

14 Attest:

15
16 _____
Lynnette Beck
City Clerk

Option B

Amendment proposed in addition to Attachment B (would prohibit short-term rental of a principal DU once an ADU is created):

Amend proposed Subsection 10-3-19(k) to include the following language as a new paragraph (1) and renumber the following paragraphs:

10-3-19, Short-Term Rentals.

(k) An accessory unit or a principal dwelling unit on a single-family lot or parcel with an accessory unit may not be rented as a short-term rental unless all of the following requirements are met:

(1) Both the accessory unit and the principal dwelling unit were legally established on March 31, 2019.

~~(42)~~ A current and valid short-term rental license exists for the unit.

~~(23)~~ If the accessory unit is licensed for short-term rental, only the accessory unit and not any other dwelling unit on the same property may be licensed or used as a rental.

~~(34)~~ If a principal dwelling unit is licensed for short-term rental, then no accessory unit on the same property may be licensed or used as a rental.

~~(45)~~ An accessory unit may not be rented as a short-term rental for more than one hundred twenty days in any calendar year.

~~(56)~~ Notwithstanding the provisions of subsection (g), the occupancy of the accessory unit and the principal dwelling unit must meet the requirements of Subsection 9-6-3(a)(1), B.R.C. 1981.

~~(67)~~ Licensing Limitations and Requirements:

(A) No application for a new short-term rental license shall be accepted after March 31, 2019. After March 31, 2019, a new short-term rental license may be issued only for complete applications received by the city manager on or before March 31, 2019. After March 31, 2019, the city manager may renew unexpired short-term rental licenses pursuant to Section 10-3-7, "License Renewal Procedures," B.R.C. 1981. A license for which a complete renewal application is not filed within ninety days from the expiration date shall be considered expired.

(B) An applicant for a short-term rental license for a detached accessory dwelling unit, as that term is defined in Section 9-16-1, "General Definitions," B.R.C. 1981, must submit an inspection report for the accessory structure containing the unit consistent with the requirements of Section 10-3-3(a)(1)(A), "Licenses," B.R.C. 1981.

(C) Notwithstanding the provisions of Section 10-2-2, "Adoption of the International Property Maintenance Code with Modifications," B.R.C. 1981, Appendix C, effective January 2, 2019, the energy efficiency requirements set forth in Section

10-2-2, Appendix C shall apply to detached accessory dwelling units, as that term is defined in Section 9-16-1, "General Definitions," B.R.C. 1981, that are licensed for short-term rental.