



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: February 6, 2025

AGENDA TITLE

Introduction, first reading and consideration of a motion to order published by title only Ordinance 8651, amending Title 1, “General Administration,” Title 4, “Licenses and Permits,” Title 5, “General Offices,” Title 9, “Land Use Code,” and Title 10, “Structures,” B.R.C. 1981, to update residential occupancy standards to ensure conformance with Colorado House Bill 24-1007, “Concerning Residential Occupancy Limits,” and setting forth related details.

PRESENTERS

Nuria Rivera-Vandermyde, City Manager
Teresa Taylor Tate, City Attorney
Mark Woulf, Assistant City Manager
Brad Mueller, Director of Planning & Development Services
Hella Pannewig, Senior Counsel
Charles Ferro, Senior Planning Manager
Karl Guiler, Senior Policy Advisor

EXECUTIVE SUMMARY

This ordinance has been drafted in response to state legislation passed in the 2024 Colorado legislative session regarding residential occupancy (HB24-1007, Concerning Residential Occupancy Limits). The state law states that local governments shall not limit the number of people who may live together in a single dwelling based on familial relationships as of July 1, 2024, but allows established life and safety occupancy

restrictions to be enforced. The changes in Ordinance 8651 update occupancy limits in Boulder to align with the health and safety standards in the International Property Maintenance Code ([IPMC](#)), rather than basing occupancy limits on [numbers](#) of unrelated people, and thereby familial relationship. The ordinance would also update terminology throughout the Boulder Revised Code accordingly. Staff is recommending adoption of the ordinance to have consistency with the state law and to avoid any confusion in property owners, landlords, and tenants on what occupancy standards apply.

In addition to the descriptions and analysis provided in this memo, an annotated ordinance that explains individual changes in footnotes is provided in [Attachment A](#). The ordinance proposed for adoption does not include these footnotes and is available in [Attachment B](#).

Planning Board unanimously recommended that City Council adopt the ordinance at its December 3, 2024 public hearing. If adopted, changes would go into effect 30 days after adoption by City Council. Consistent with the state law, the city has ceased enforcement of the current zoning regulations on occupancy that are based on familial relationships. The city continues to apply and enforce the occupancy standards of the IPMC, which are demonstrated health and safety standards and have been in use by the city for years.

KEY ISSUE

Staff has identified the following key issue to help guide the City Council’s discussion:

1. Does City Council recommend any modifications to the draft ordinance?

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to introduce and order published by title only Ordinance 8651, amending Title 1, “General Administration,” Title 4, “Licenses and Permits,” Title 5, “General Offices,” Title 9, “Land Use Code,” and Title 10, “Structures,” B.R.C. 1981, to update residential occupancy standards to ensure conformance with Colorado House Bill 24-1007, “Concerning Residential Occupancy Limits,” ;and setting forth related details.

RESPONSES TO QUESTIONS FROM COUNCIL AGENDA COMMITTEE

None.

BOARD AND COMMISSION FEEDBACK

Planning Board – Planning Board unanimously recommended that City Council adopt Ordinance 8651 at its December 3, 2024 public hearing on a vote of 5 to 0. After asking staff questions regarding the ordinance, the board deliberated with one board member mentioning the importance of the ordinance in opening up housing opportunities, removing zoning barriers to housing, and eliminating zoning regulations that have discriminatory roots. The board member noted that the change is a human rights issue and the ordinance is a powerful step forward. The other board members agreed. One member noted that while zoning occupancy limits would no longer apply should the ordinance pass, life and safety occupancy limits based on the number and size of bedrooms would still apply. The board’s motion to recommend adoption of the ordinance is below:

C. Hanson Thiem made a motion seconded by **K. Nordback** that Planning Board recommend that City Council adopt Ordinance 8651, amending Section 4-20-18, "Rental License Fee," Title 9, "Land Use Code," and Title 10 "Structures," B.R.C. 1981, to update the occupancy regulations, and setting forth related details. Planning Board voted 5-0. Motion passed.

Housing Advisory Board – Staff briefed Housing Advisory Board on the proposed ordinances on accessory dwelling units and occupancy on November 20, 2024. The board expressed support for the ordinances moving forward. On January 22, 2025, the board considered Ordinance 8651 and unanimously recommended that City Council adopt the ordinance.

COMMUNITY FEEDBACK

Since these changes are in response to state legislation, an *inform* level of engagement for this project has been used. Significant feedback on the topic was received during the most recent updates in 2023 for [occupancy](#). Extensive feedback was received in 2023 on the changes to occupancy at that time. The city used a variety of methods, including meeting with specific interested groups and neighborhoods and an online questionnaire that had over 2,000 responses and 1,000 written comments. This feedback can be reviewed within a [2023 memo to City Council at this link](#). Notification of the current changes has been announced in the Planning and Development Services monthly newsletter, which reaches over 5,000 people. As part of the newsletter, staff has provided a link to [an online presentation at this link](#) that includes detailed descriptions of all the land use related state bills.

BACKGROUND

The city of Boulder has adopted several ordinances over the past few years to address the growing cost of housing. This includes 2023 code updates to the city’s ADU standards to enable more ADUs citywide, changing the prior occupancy limitations per dwelling unit

from 3 or 4 unrelated people per unit to 5 unrelated per unit, and the removal of zoning barriers to residential uses with a focus on the high density residential, business, and industrial zones. In early 2024, the city also removed its residential growth management system, which previously limited the number of residential building permits per year in response to a 2023 state bill that prohibited such restrictions.

Since the adoption of these local ordinances, the state legislature adopted several new bills related to land use and housing in the 2024 legislative session. [HB24-1007](#) prohibits residential occupancy limits based on familial relationships (which is aimed predominantly on restrictions on the number of unrelated people per unit). A more detailed description of the house bill is provided below:

HB24-1007, Prohibit Residential Occupancy Limits

[HB24-1007](#), adopted on April 15, 2024, specifies the following:

- States that local governments may not limit the number of people who may live together in a single dwelling based on family relationships as of July 1, 2024.
- Only allows occupancy limits based on demonstrated health and safety standards, such as international building code standards, fire code regulations, or Colorado Department of Public Health and Environmental Wastewater and Water Quality Standards or based on Local, State, Federal, or Political Subdivision Affordable Housing Program Guidelines.

Since adoption of the state bill, staff has ceased enforcement of the existing residential occupancy standards in the land use code (e.g., maximum of five unrelated persons per units) and has continued to enforce the life safety related [International Property Maintenance Code \(IPMC\)](#) to regulate residential occupancy based on the number and size of bedrooms in each dwelling unit. The IPMC requires that each bedroom be no less than 70 square feet in size, with a minimum of 50 square feet per occupant of a bedroom (IPMC sec.404.4.1). In addition, IPMC table 404.5 prescribes minimum areas for living and dining rooms based on the number of occupants of the dwelling unit.

Staff has prepared a draft ordinance that would bring the city's land use code into compliance with HB24-1007 for occupancy as described in detail below.

SUMMARY OF PROPOSED CHANGES IN ORDINANCE 8651

The changes in Ordinance 8651 update occupancy limits to align with the health and safety standards in the International Property Maintenance Code, rather than familial relationships, and updates terminology throughout the municipal code accordingly. The following sections provide background and summarize major topics related to the draft ordinance.

Ordinance 8651: Occupancy

- Removes all references to residential occupancy limits in the Boulder Revised Code based on “unrelated persons” and replaces with references to Chapter 10-2, “Property Maintenance Code,” B.R.C., and the International Property Maintenance Code
- Completely removes the ‘Cooperative Housing License’ requirements within Title 10, “Structures,” in the BRC, which are a permitting process to request more than five unrelated persons in a dwelling unit and up to 12 with special approval.
- Clarifies that a condition or other requirement in any prior approvals under Title 9, Land Use Code, that may have restricted occupancy based on unrelated persons would no longer apply and would be superseded by the updated regulations to comply with H.B.24-1007;
- Removes references to occupancy in the land use code related to congregate care, custodial care facilities, residential care facilities, and group homes to avoid conflicts with state law for any units that may be considered a “single dwelling” (e.g., a household living configuration). These uses will continue to be subject to applicable IPMC and International Building Code occupancy limitations.
- Moves enforcement provisions for occupancy from Title 9, Land Use Code, to Title 10, Structures, because that is where occupancy standards will be located.
- Updates references and definitions for ‘single-family dwellings’ and ‘multi-family dwellings’ to be ‘detached dwelling units’ and ‘multi-unit dwellings’ consistently throughout the code. This aligns with terminology used in recent state bills on housing and advances city goals reflected in the Sustainability, Equity and Resilience (“SER”) Framework.

Attachment A contains the annotated version of the ordinance and **Attachment B** is the ordinance proposed for adoption.

ANALYSIS

Staff has identified the following key issues to help guide the City Council’s discussion:

1. Does City Council recommend any modifications to the draft ordinance?

The following analysis is provided to demonstrate how the project objective is met through the proposed ordinance.

What is the reason for the ordinance and what public purpose will be served?

This ordinance has been drafted in response to recent state legislation. The occupancy changes in Ordinance 8651 will ensure that the health and safety standards in the International Property Maintenance Code are used to regulate maximum occupancy of dwelling units rather than basing occupancy on number of unrelated persons.

The change is intended to open up more housing opportunities in municipalities to help mitigate the ever-growing cost of housing. Allowing more unrelated occupants within units offers a wider variety of housing types and sizes.

Are there consequences in denying this ordinance?

The changes in the ordinance are intended to address the new state legislation. Not updating the land use code relative to occupancy would create inconsistencies with the state law, create confusion in the community on what occupancy limitations apply to dwelling units, create a risk of litigation alleging violation of or preemption by state legislation, and ambiguity on what is considered compliant.

What adverse effects may result with the adoption of this ordinance?

An increase in the number of people that are unrelated within dwelling units could potentially increase parking demand on sites and areas where there is insufficient off-street parking, since there may be fewer instances of car sharing. In turn, a large family within a dwelling unit (permissible under the current land use code) could present commensurate or even larger parking impacts than a dwelling unit occupied by unrelated people. Residential parking impact is something that is being evaluated as part of the current Access Management Parking Strategy project, which is slated to be completed in mid-2025. Beyond the potential for additional intensity on some sites from increased occupancy, staff does not anticipate adverse effects will result from the adoption of this ordinance.

What factors are influencing the timing of the proposed ordinance? Why?

HB24-1007 related to occupancy established July 1, 2024, as the effective date. It does not have a stated deadline for which municipalities must update their zoning to comply. Updating the occupancy regulations at this time will help to make the regulations clear to property owners and rental property management companies that market properties and prepare leases. The Colorado Department of Local Affairs considers jurisdictions that do not enforce occupancy standards that are inconsistent with the bill as complying with the bill.

How does the ordinance compare to practices in other cities?

This ordinance will align Boulder’s requirements with the recent state legislation. The state bill states that it applies to any “*home rule or statutory city, home rule or statutory county, town, territorial charter city, or city and county.*”

How will this ordinance implement the comprehensive plan?

This project implements several relevant policies noted below. Allowing more occupants within units offers a wider variety of housing types and sizes consistent with the policies below.

- **Growth Management Policy 1.11 Jobs: Housing Balance**
Boulder is a major employment center, with more jobs than housing for people who work here. This has resulted in both positive and negative impacts, including economic prosperity, significant in-commuting and high demand on existing housing. The city will continue to be a major employment center and will seek opportunities to improve the

balance of jobs and housing while maintaining a healthy economy. This will be accomplished by encouraging new housing and mixed-use neighborhoods in areas close to where people work, encouraging transit-oriented development in appropriate locations, preserving service commercial uses, converting commercial and industrial uses to residential uses in appropriate locations, improving regional transportation alternatives and mitigating the impacts of traffic congestion.

➤ **Built Environment Policy 2.10: Preservation & Support for Residential Neighborhoods**

The city will work with neighborhoods to protect and enhance neighborhood character and livability and preserve the relative affordability of existing housing stock. The city will also work with neighborhoods to identify areas for additional housing, libraries, recreation centers, parks, open space or small retail uses that could be integrated into and supportive of neighborhoods. The city will seek appropriate building scale and compatible character in new development or redevelopment, appropriately sized and sensitively designed streets and desired public facilities and mixed commercial uses. The city will also encourage neighborhood schools and safe routes to school.

➤ **Housing Policy 7.01: Local Solutions to Affordable Housing**

The city and county will employ local regulations, policies and programs to meet the housing needs of low, moderate and middle-income households. Appropriate federal, state and local programs and resources will be used locally and in collaboration with other jurisdictions. The city and county recognize that affordable housing provides a significant community benefit and will continually monitor and evaluate policies, processes, programs and regulations to further the region's affordable housing goals. The city and county will work to integrate effective community engagement with funding and development requirements and other processes to achieve effective local solutions.

➤ **Housing Policy 7.07: Mixture of Housing Types**

The city and county, through their land use regulations and housing policies, will encourage the private sector to provide and maintain a mixture of housing types with varied prices, sizes and densities to meet the housing needs of the low-, moderate- and middle-income households of the Boulder Valley population. The city will encourage property owners to provide a mix of housing types, as appropriate. This may include support for ADUs/OAUs, alley houses, cottage courts and building multiple small units rather than one large house on a lot.

➤ **Housing Policy 7.08: Preserve Existing Housing Stock**

The city and county, recognizing the value of their existing housing stock, will encourage its preservation and rehabilitation through land use policies and regulations. Special efforts will be made to preserve and rehabilitate existing housing serving low-, moderate- and middle-income households. Special efforts will also be made to preserve and rehabilitate existing housing serving low-, moderate- and middle-income households and to promote a net gain in affordable and middle-income housing.

➤ **Housing Policy 7.10: Housing for a Full Range of Households**

The city and county will encourage preservation and development of housing attractive to current and future households, persons at all stages of life and abilities, and to a variety of household incomes and configurations. This includes singles, couples, families with children and other dependents, extended families, non-traditional households and seniors.

➤ **Housing Policy 7.11: Balancing Housing Supply with Employment Base**

The Boulder Valley housing supply should reflect, to the extent possible, employer workforce housing needs, locations and salary ranges. Key considerations include

housing type, mix and affordability. The city will explore policies and programs to increase housing for Boulder workers and their families by fostering mixed-use and multi-family development in proximity to transit, employment or services and by considering the conversion of commercial- and industrial-zoned or -designated land to allow future residential use.

➤ **Housing Policy 7.17: Market Affordability**

The city will encourage and support efforts to provide market rate housing priced to be more affordable to middle-income households by identifying opportunities to incentivize moderately sized and priced homes.

➤ **Local Governance & Community Engagement Policy 10.01: High-Performing Government**

The city and county strive for continuous improvement in stewardship and sustainability of financial, human, information and physical assets. In all business, the city and county seek to enhance and facilitate transparency, accuracy, efficiency, effectiveness and quality customer service. The city and county support strategic decision-making with timely, reliable and accurate data and analysis.

NEXT STEPS

Second Reading and public hearing of proposed Ordinance 8651 is scheduled for March 6, 2025. Council can choose whether to adopt this ordinance or not.

ATTACHMENTS

Attachment A: Annotated Ordinance 8651

Attachment B: Proposed Ordinance 8651

ANNOTATED ORDINANCE 8651

AN ORDINANCE AMENDING TITLE 1, "GENERAL ADMINISTRATION," TITLE 4, "LICENSES AND PERMITS," TITLE 5, "GENERAL OFFENSES," TITLE 9, "LAND USE CODE," AND TITLE 10, "STRUCTURES," B.R.C. 1981, TO AMEND RESIDENTIAL OCCUPANCY STANDARDS TO COMPLY WITH COLORADO HOUSE BILL 24-1007, CONCERNING RESIDENTIAL OCCUPANCY LIMITS , AND SETTING FORTH RELATED DETAILS.

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

Section 1. Section 1-2-1, "Definitions," B.R.C. 1981, is amended to read as follows:

1-2-1. - Definitions.

- (a) The definitions in this chapter apply throughout this code unless a term is defined differently in a specific title, chapter or section.
- (b) The following words used in this code and other ordinances of the City have the following meanings unless the context clearly indicates otherwise:

Dwelling unit, detached means a detached principal building other than a mobile home, designed for or used as a dwelling with no more than one dwelling unit within a structure.

Duplex means a structure containing only two dwelling units.¹

Family means the heads of household plus the following persons who are related to the heads of the household: parents and children, grandparents and grandchildren, brothers and sisters, aunts and uncles, nephews and nieces, first cousins, the children of first cousins, great grandchildren, great grandparents, great great grandchildren, great great grandparents, grandnieces, grandnephews, great aunts and great uncles. These relationships may be of the whole or half blood, by adoption, guardianship, including foster children, or through a marriage or a domestic partnership meeting the requirements of chapter 12-4, "Domestic Partners," B.R.C. 1981, to a person with such a relationship with the heads of household.

¹ As Title 1 includes definitions about dwelling unit types, other types of dwellings from Title 9, Land Use Code, are also listed here. The definitions match those in Title 9.

Multi-unit dwelling means a building of two or more dwelling units but not including motels, hotels, and detached dwelling units...

²

Rooming house means an establishment where, for direct or indirect compensation, lodging, with or without kitchen facilities or meals, is offered for one month or more for three or more roomers living independently within rooming units.

Rooming unit means a type of housing accommodation that consists of a room or group of rooms for a roomer, arranged primarily for sleeping and studying, and that may include a private bath but does not include a sink or any cooking device.

Townhouse means an attached dwelling unit located or capable of being located on its own lot, and separated from adjoining dwelling units by a wall extending from the foundation through the roof which is structurally independent of the corresponding wall of the adjoining unit.

Section 2. Section 4-4-4, "Classification of Licenses," B.R.C. 1981, is amended to read as follows:

4-4-4. Classification of Licenses.

- (a) A Class A license entitles the licensee to contract for the construction, alteration, wrecking, or repair of any type or size of building or structure permitted by the City of Boulder Building Code. The annual fee for a Class A license is that prescribed in Section 4-20-4, "Building Contractor License, Building Permit Fees, and Payment of Estimated Use Tax," B.R.C. 1981.
- (b) A Class B license entitles the licensee to contract for the construction, alteration, wrecking, or repair of all commercial and residential buildings or structures defined as Type V, Type V-1 hour, Type IV, Type II-N, and Type III-N in the City of Boulder Building Code.³ The

² This definition in Title 1 included the anticipated occupancy requirements from years ago and thus, is being removed. The limitations are also inconsistent with the recent state law.

³Chapter 10-5, "Building Code," B.R.C. 1981.

annual fee for a Class B license is that prescribed in Section 4-20-4, "Building Contractor License, Building Permit Fees, and Payment of Estimated Use Tax," B.R.C. 1981.

(c) A Class C license entitles the licensee to contract for:

(1) The construction, alteration, wrecking, or repair of any R-3 occupancies or of R-1 occupancies, as defined in the City of Boulder Building Code, Chapter 10-5, "Building Code," B.R.C. 1981, of two stories or less not involving reinforced concrete construction; and

(2) The repair of nonresidential buildings not involving load-bearing structures. But this Class C license does not entitle the holder to contract for construction, alteration, or repair of public buildings or places of public assembly, nor for nonresidential projects whose total value of the labor and material exceeds \$5,000. The annual fee for a Class C license is that prescribed in Section 4-20-4, "Building Contractor License, Building Permit Fees, and Payment of Estimated Use Tax," B.R.C. 1981.

(d) A Class D license entitles the licensee to contract for labor or for labor and materials involving only one trade, these trades will be identified as listed below:

D-1.	Moving and wrecking of structures
D-2.	Roofing
D-3.	Siding
D-4.	Landscaping, irrigation, and site work
D-5.	Detached one-story garage and sheds accessory to detached dwelling units ⁴
D-6.	Mobile home installer
D-7.	Elevator and escalator installer
D-8.	Class not identified above but requiring a building permit and inspection
D-9.	Rental housing inspector

⁴ As the state has prompted local governments to not regulate occupancy based on familial relationships, it also has been using dwelling unit terminology that removes the term "family" from any unit type. For instance, multi-family is now termed multi-unit and single-family is either single-unit or detached dwelling unit. Other local governments have been making that change. Therefore, this ordinance makes this change throughout the Boulder Revised Code and the primary reason for the length of the ordinance and number of sections being changed.

Section 3. Section 4-13-4, "Classification of Licenses," B.R.C. 1981, is amended to read as follows:

4-13-4. Classifications of Licenses.

- (a) A Class A license entitles the licensee to undertake or perform any work covered by the city mechanical code. The annual fee for a Class A license is that prescribed by section 4-20-13, "Mechanical Contractor License and Mechanical Permit Fees," B.R.C. 1981.
- (b) A Class B license entitles the licensee to undertake or perform work covered by the mechanical code for commercial and dwelling units except for work associated with sections 507 and 508 and the following occupancies "H" and "I" as defined in the city mechanical code. The annual fee for a Class B license is that prescribed by section 4-20-13, "Mechanical Contractor License and Mechanical Permit Fees," B.R.C. 1981.
- (c) A Class C license entitles the licensee to undertake or perform work covered through the city mechanical code for detached dwelling units and duplexes. The annual fee for a Class C license is that prescribed by section 4-20-13, "Mechanical Contractor License and Mechanical Permit Fees," B.R.C. 1981.
- (d) A Class D license entitles the licensee to undertake or perform work covered by sections 507 and 508 of the city mechanical code. The annual fee for a Class D license is that prescribed by section 4-20-13, "Mechanical Contractor License and Mechanical Permit Fees," B.R.C. 1981.
- (e) A Class E license entitles the licensee to undertake or perform boiler, water heaters and hydronics covered in chapters 10 and 12 of the city mechanical code. The annual fee for a Class E license is that prescribed by Section 4-20-13, "Mechanical Contractor License and Mechanical Permit Fees," B.R.C. 1981.

Section 4. Section 4-20-4(f), "Building Contractor License, Building Permit Fees, and Payment of Estimated Use Tax.," B.R.C. 1981, is amended to read as follows:

- (f) Other fees are as follows:

	<i>Permit</i>	<i>Fee</i>
(1)	Demolition Permit	
	(A) Interior/nonloadbearing	\$ 24.55
	(B) All other	\$173.70
(2)	Fence Permit and Retaining Wall Permit	\$4.05 for each \$100 (No maximum)
(3)	Temporary Event Permit Fee	\$28.05

(4)	Reinspection Fee	\$94 per occurrence (Payable before any further inspections can be done.)
(5)	Change of Use Fee	\$81 (Can be credited to building permit fee if permit applied for and paid within ninety days.)
(6)	After Hours Inspection	\$123 per hour - two-hour minimum
(7)	Plan Check Fee (due at time of permit application):	
	(A) Residential, detached dwelling units in the RR-1, RR-2, RE, RL-1, RMX-1; and detached dwelling units in RL-2 on lots larger than 8,000 square feet and that are not within the boundaries of a planned development, planned residential development, planned unit development, or an approved site review; or shown on Appendix H of Title 9, Land Use Code	Fifty percent of the building permit fee
	(B) All other residential, detached dwelling units not covered by (A) above	Twenty-five percent of the building permit fee
	(C) Residential, multi-unit dwellings	Sixty-five percent of the building permit fee
	(D) Nonresidential	Sixty-five percent of the building permit fee
(8)	Energy Code Calculation Fee:	
	Heat Loss Calculation Check Fee:	
	(A) Residential	\$ 83.90
	(B) Commercial	\$104.05
(9)	Reinstatement of Permit	Fifty percent of Building Permit Fee (Energy Fee will not be charged if no further review is required.)
(10)	Temporary Certificate of Occupancy	\$173.70

(11)	Replacement of Lost Plans/New Red-lines:	
	(A) Residential/tenant finish	\$116.60 plus cost of reproduction
	(B) Commercial - New	\$347.60 plus cost of reproduction
(12)	Gasoline Tank Installations	\$69.54
(13)	House Moving Permit	\$58.50
(14)	Grading Fees:	
	(A) Grading Plan Review Fees:	
	(i) Fifty cubic yards or less No fee	
	(ii) Fifty-one through one hundred cubic yards \$18.65	
	(iii) One hundred one through one thousand cubic yards \$28	
	(iv) One thousand one through ten thousand cubic yards \$37.30	
	(v) Ten thousand one through one hundred thousand cubic yards - \$37.30 for the first ten thousand cubic yards, plus \$18.65 for each additional ten thousand yards or fraction thereof.	
	(vi) One hundred thousand one through two hundred thousand cubic yards - \$205.60 for the first one hundred thousand cubic yards, plus \$11.15 for each additional ten thousand cubic yards or fraction thereof.	
	(vii) Two hundred thousand one cubic yards or more - \$317.45 for the first two hundred thousand cubic yards, plus \$5.55 for each additional ten thousand cubic yards or fraction thereof.	
	(viii) Additional plan review required by changes, additions, or revisions to approved plans - \$51.30 per hour (minimum charge—one-half hour).	
	(B) Grading Permit Fees:	
	(i) Fifty cubic yards or less \$18.65	
	Fifty-one through one hundred cubic yards \$28	

	(ii) One hundred one through one thousand cubic yards - \$28 for the first one hundred cubic yards plus \$12.60 for each additional one hundred cubic yards or fraction thereof.
	(iii) One thousand one through ten thousand cubic yards - \$145.70 for the first one thousand cubic yards, plus \$11.15 for each additional one thousand cubic yards or fraction thereof.
	(iv) Ten thousand one through one hundred thousand cubic yards - \$246.50 for the first ten thousand cubic yards, plus \$50.25 for each additional ten thousand cubic yards or fraction thereof.
	(v) One hundred thousand one cubic yards or more - \$700.30 for the first one hundred thousand cubic yards, plus \$28 for each additional ten thousand yards or fraction thereof.
The fee for any permit issued after construction has begun shall be twice the amount of each fee listed above.	

Section 5. Section 4-20-8, “Electrical Contractor Registration and Electrical Permit Fees,” B.R.C. 1981, is amended to read as follows:

4-20-8. Electrical Contractor Registration and Electrical Permit Fees.

(a) For each electrical permit, the following fees shall be paid in addition to the fees established for building permits under Section 4-20-4, "Building Contractor License, Building Permit Fees, and Payment of Estimated Use Tax," B.R.C. 1981:

(1) **Permit fees.**

(A) Residential (one- and two-unit dwellings, and townhouses, new construction, extensive remodeling, and additions [based on enclosed living area]):

<i>Size</i>	<i>Fee</i>
Less than 500 square feet	\$36.70
500 through 999 square feet	51.75
1,000 through 1,499 square feet	69.60

1,500 through 1,999 square feet	90.25
2,000 square feet or more	90.25 plus \$5.90 per 100 square feet over 2,000 square feet

- (B) Residential Service Change \$36.70
- (C) Photovoltaic/Thermal System Permit \$69.60
- (2) All other fees (including, without limitation, commercial construction and multi-unit dwelling) based on the total cost of the electrical installations, including labor and electrical materials and items except as provided in Paragraphs (a)(3) and (a)(4) of this section:

<i>Value</i>	<i>Fee</i>
\$300 or less	\$ 42.85
\$300.01 through \$3,000	50.90
\$3,000.01 and up	19.60 per \$1,000 of total valuation or fraction thereof
Photovoltaic/Thermal System Permit	139.20

- (3) Mobile Home Spaces \$42.85 per space
- (4) Temporary Construction Power Permit \$36.40
- (b) The reinspection fee is \$94 per occurrence.
- (c) The after-hours inspection fee is \$123 per hour, with a two-hour minimum.
- (d) The fee for any permit issued after construction has begun shall be twice the amount of each fee listed above.

Section 6. Section 4-20-43, “Development Application Fees,” B.R.C. 1981, is amended to read as follows:

4-20-43. Development Application Fees.

(b) Land use regulation fees:

- (1) Applicant for a blue line amendment shall pay \$524.
- (2) An applicant for zoning of land to be annexed shall pay the following fees:

Feasibility study

Annexation feasibility study \$2,100 ;b23; (Will apply as credit to initial annexation application fee if submitted within the same calendar year.)

Simple Residential Detached Dwelling Unit

Initial application \$5,000

Reapplication for same type of revision on same property within six months (if initial application is withdrawn or denied) \$2,500

Standard

Initial application \$15,000

Reapplication for same type of revision on same property within six months (if initial application is withdrawn or denied) \$7,500

Complex

Initial application \$20,000

Each additional annexation agreement \$2,500

Reapplication for same type of revision on same property within six months (if initial application is withdrawn or denied) \$10,000

Section 7. Section 4-20-44, "Cooperative Housing License Fee," B.R.C. 1981, is amended to read as follows:

4-20-44. Floodplain Development Permits and Flood Control Variance Fees.

- (a) If the floodplain development permit is for a development not located within the conveyance zone:
 - (1) An applicant for a floodplain development permit for the construction of a fence, or for flatwork, shall pay \$35.
 - (2) An applicant for a floodplain development permit for construction of a shed, garage, deck, or for interior or exterior "rehabilitation" as defined in Section 9-16-1, "General Definitions," B.R.C. 1981, of an existing structure shall pay \$85.

- (3) An applicant for a floodplain development permit for improvements or additions to an existing structure not meeting the thresholds for "substantial damage," "substantial improvement" or "substantial modification" as defined in Section 9-16-1, "General Definitions," B.R.C. 1981, shall pay \$350.
- (4) An applicant for a floodplain development permit for work on an existing residential structure exceeding the threshold for "substantial damage," "substantial improvement" or "substantial modification" as defined in Section 9-16-1, "General Definitions," B.R.C. 1981, or any new residential, commercial, or mixed-use structure elevated to flood protection elevation shall pay \$700.
- (5) An applicant for a floodplain development permit for an addition to an existing structure, "substantial improvement," "substantial modification" or construction of a new structure with "floodproofing" as that term is defined in Section 9-16-1, "General Definitions," B.R.C. 1981, shall pay \$3,675.
- (b) If the floodplain development permit is for a development located within the conveyance zone or the floodway:
- (1) An applicant for a floodplain development permit where a floodplain analysis is not required shall pay \$700.
- (2) An applicant for a floodplain development permit where the city manager, pursuant to Paragraph 9-3-6(b)(3), B.R.C. 1981, requires the applicant to furnish a floodplain analysis, the applicant shall pay \$3,600.
- (c) An applicant for a floodplain development permit for an emergency operations plan shall pay:
- (1) \$700 for an evacuation plan.
- (2) \$1,400 for a shelter-in-place plan.
- (d) An applicant for a floodplain development permit for a hazardous materials facility shall pay \$700 for containment of hazardous materials or shall apply for elevation or floodproofing permits as described above.
- (e) An applicant for a floodplain map revision shall pay:
- (1) \$700 for a map revision that involves fill.
- (2) \$3,600 for a map revision that includes a floodplain analysis.
- (f) An applicant for a variance from the floodplain regulation provisions of Section 9-3-7, "Variances," B.R.C. 1981, shall pay \$1,400.
- (g) An applicant shall pay a revision fee of twenty-five percent of the application fee for review of revisions to items (a) through (f) of this section.
- (h) An applicant for a floodplain information request shall pay \$28 for each address.

Section 8. Section 4-20-69, “Cooperative Housing License Fee,” B.R.C. 1981, is

amended to read as follows:

4-20-69. Reserved.⁵

Section 9. Section 4-22-6, “Conveyances to Which Chapter Not Applicable,” B.R.C.

1981, is amended to read as follows:

4-22-6. Conveyances to Which Chapter Not Applicable.

Nothing in this chapter applies to the installation or operation of an elevator, dumbwaiter, materials lift, escalator or moving walk in a private residence. For purposes of this chapter, the term *private residence* means a dwelling unit regulated under the Residential Code of the City of Boulder. .

**Section 10. Section 4-23-2, “Permit Issuance,” B.R.C. 1981, is amended to read as follows:
4-23-2. Permit Issuance.**

- (a) Upon designation of a neighborhood permit parking zone pursuant to Section 2-2-15, "Neighborhood Permit Parking Zones," B.R.C. 1981, the city manager shall issue parking permits for vehicles owned by or in the custody of and regularly used by residents of such zone, by persons employed by a business located within such zone, and, if provided in the zone, by individual nonresidents upon receipt of a completed application therefor and payment of the fees prescribed in Section 4-20-49, "Neighborhood Parking Permit Fee," B.R.C. 1981.
- (b) A vehicle displaying a valid permit or, for digital permits, with a valid permit in effect issued pursuant to this section may be parked in the zone specified in the permit without regard to the time limits prescribed for the zone.
- (c) Resident Permits. No more than two resident permits shall be in effect at any time for any person. No person shall be deemed a resident of more than one zone, and no more than one permit may be issued for any one vehicle even if persons residing in different zones share ownership or use.

⁵ The coop sections of the code are based on allowing occupancies above five unrelated persons with special approval. This conflicts with the state law and thus, all coop sections are proposed for removal from the Boulder Revised Code. Occupancy within units would just have to meet the current International Property Maintenance Code (IPMC) occupancy limits that are based on established life safety standards as noted in the state law.

- (d) Resident permits issued under this section shall be specific for a single vehicle, shall not be transferred, and shall be displayed thereon only as the manager by regulation may prescribe. The permittee shall remove the permit from the vehicle if the vehicle is sold, leased or no longer in the custody of the permittee.
- (e) Business Permits. Business, for the purpose of this chapter, includes nonresidential institutions, but does not include home occupations. Three business employee permits may be in effect at any time for any business without regard to number of employees or off-street parking. In the alternative, upon application by the manager of the business, the city manager may issue employee permits to a business according to the following formula: half of the number of full-time equivalent employees minus the number of off-street parking spaces under the control of the business at that location equals the maximum number of employee permits for the business. Full-time equivalent employees of the business are calculated based upon one such employee for every full forty hours worked at that location by employees of the business within the periods of time in a week during which the neighborhood permit parking restrictions are in effect. On its application, the employer shall designate the employee vehicles, not to exceed the number allowed, for which each permit is valid. A business permit is valid only for the vehicles listed thereon, and shall be displayed on the vehicle for which the permit is being used only as the manager by regulation may prescribe.
- (f) The manager shall by regulation declare when the permit year shall begin for each neighborhood parking permit zone. Permits issued based on new applications submitted during the last month of a permit year shall also be valid for the succeeding permit year. Otherwise there shall be no proration of the fee.
- (g) In considering applications for resident permits, the manager may require proof that the applicant has a legal right to possession of the premises claimed as a residence. If the manager has probable cause to believe that the occupancy limitations of Subsection 9-8-5(a), B.R.C. 1981, are being violated, no further permits shall be issued under this section for the residence in question until the occupancy thereof is brought into compliance.
- (h) If the permit or the portion of the vehicle to which a resident permit has been affixed is damaged such that it must be replaced, the permittee, upon application therefor, shall be issued a replacement at a prorated cost. The manager may require display of the damaged permit before a new permit is issued.
- (i) No person shall use or display any permit issued under this section in violation of any provision of this code.
- (j) Commuter Permits. The maximum number of nonresident permits issued on any given block face within a zone shall be four. In addition, if the manager determines that the average daily percentage of unoccupied neighborhood parking spaces, on block faces where commuter permits have been allocated, drops below twenty-five percent for four consecutive hours between the hours of 9:00 a.m. and 5:00 p.m. of any given weekday, then the manager shall reduce the number of commuter permits by a number estimated to maintain an average daily percentage of unoccupied neighborhood parking spaces of twenty-five percent. But for any part of Goss Street or Circle, Grove Street or Circle or the

portions of 16th Street through 23rd Street between Arapahoe Avenue and Canyon Boulevard, included within any neighborhood parking permit zone, the average daily percentage of unoccupied neighborhood parking spaces which must be maintained without reduction in commuter permits shall be fifteen percent. The manager may also, for this Goss-Grove zone, allocate commuter permits initially to educational institutions and organizations representing postal workers in rough proportion to the needs of these groups. Such groups may renew such permits. Distribution of such permits by such groups to their clientele shall be at a price not to exceed the cost of the permit.

Section 11. Section 4-23-3, "Guest Permits," B.R.C. 1981, is amended to read as

follows:

4-23-3. Guest Permits.

Residents of a zone may obtain two two-week permits per year at no cost for use by houseguests of the resident. The permit shall be indelibly marked in the space provided thereon with, or for digital permits shall indicate, the date of its first use. The permit shall thereafter be valid only for the succeeding thirteen consecutive days. The manager may by regulation define the circumstances under which additional guest permits may be issued in cases of reasonable need consistent with residential use of the dwelling.

Section 12. Section 4-30-3, "Permit Issuance," B.R.C. 1981, is amended to read as follows:

4-30-3. Permit Issuance.

- (a) Pursuant to Section 2-2-21, "Chautauqua Parking Management Plan," B.R.C. 1981 and unless delegated by regulation to Colorado Chautauqua Association, the city manager shall issue and manage parking permits for vehicles owned by or in the custody of and regularly used by residents and lodgers of such zone, by persons employed by a business located within such zone, and if available as determined by the city manager, by resident guests upon receipt of a completed application. The permits shall be effective during the Season each year.
- (b) A vehicle displaying a valid permit issued pursuant to this Section, may be parked in the zone specified in the permit without regard to the time limits prescribed for the zone. The city manager may provide for a mobile device system which does not require display of a permit.

- (c) The permit requirement shall begin during the Season each year. Permits issued based on new applications submitted during the last month of a permit period, shall also be valid for the succeeding permit year. Otherwise there shall be no proration of the fee.
- (d) Resident Permits. No more than two resident permits shall be in effect at any time for any cottage. No person shall be deemed a resident of more than one parking zone, and no more than one permit may be issued for any one vehicle, even if persons residing in different zones share ownership or use.
- ⁶(e) Guest Permits. Residents may obtain a guest permit for use by their overnight guests. The permit shall be indelibly marked in the space provided, indicating dates of the visit and the license plate number of the guest vehicle, which shall not exceed two weeks. A guest permit shall not be used by a resident for their own vehicle. Such permit shall be issued to a resident demonstrating proof of residency who shall ensure that its use is consistent with the terms set forth in this Chapter and any other relevant rules or regulations. The number of available guest permits shall be determined by the city manager.
- (f) Lodger Permits. Lodger permits are only available to lodgers who rent cottages without off-street parking or rooms at lodges owned by Colorado Chautauqua Association.
- (g) Business Permits. Business permits are only available to businesses for issuance to their employees. The number of available business permits shall be determined by the city manager.
- (h) No person shall use or display any permit issued under this Section in violation of any provision of this code or associated rule or regulation.

Section 13. Section 5-9-2, "Definitions," B.R.C. 1981, is amended to read as follows:

5-9-2. Definitions.

As used in this chapter, the following words are defined to mean:

Commercial district or *commercial zone* or *commercial* means any area zoned A, BCS, BMS, BC, MU, P, BT, BR or DT.

Group living arrangement means those group residencies in which one or more individuals live in a room or rooms of their own, but which contains common dining facilities and where decisions concerning the use of common areas for social events are shared among the individual residents. These include, without limitation, congregate or residential care facilities, rooming houses, dormitories, fraternities and sororities, as those terms are used in Title 9, "Land Use Code," B.R.C. 1981. These exclude buildings where people only reside temporarily such as hotels, motels or bed and breakfasts and buildings where each person resides in and controls a complete dwelling unit, including, multi-unit dwellings.

⁶ Zoning related occupancy limits stated in Section 9-8-5 based on the number of unrelated persons will be going away so this section is no longer necessary.

Industrial district or industrial zone or industrial means any zoning district in the industrial classification of Table 5-1 in Section [9-5-2](#), B.R.C., 1981..⁷

Light construction work means work which uses only hand tools and power tools of no more than five horsepower, but not including power actuated fastening devices (e.g., nail guns).

Residential district or residential zone or residential means any zoning district in the residential classification of Table 5-1 in Section [9-5-2](#), B.R.C., 1981..⁸

Zoned means classified into one of the zoning districts specified in Section 9-5-2, "Zoning Districts," B.R.C. 1981, as shown on the zoning map adopted by Section 9-5-3, "Zoning Map," B.R.C. 1981. Each district includes all areas zoned under the same prefix (i.e., RL includes RL-1 and RL-2). If new districts are established without amendment to this section, it is intended that the new district be governed under this chapter as if in the existing district which it most closely resembles, and if it could as easily be in one category or another, that it be in the category with the lower allowable decibel levels.

Section 14. Section 6-1-12(b), "Damaging Prairie Dog Burrows Prohibited," B.R.C.

1981, is amended to read as follows:

6-1-12. Damaging Prairie Dog Burrows Prohibited.

- (a) Except as authorized by other provisions of this chapter, no person shall damage any prairie dog burrow.
- (b) It shall be an affirmative defense to a violation of this section that:
 - (1) The burrow was uninhabited when it was damaged;
 - (2) A state permitted relocater had, within the twelve previous months, attempted to relocate all prairie dogs utilizing that burrow, whether or not all those prairie dogs were successfully captured and relocated;
 - (3) The burrow was damaged by a person who owned, or was responsible for operating, an airport facility or by a person who was acting at the direction of the owner of an airport facility and the activity that damaged the burrow was necessary in order to promote human safety or in order to comply with Federal Aviation Administration standards or regulations;
 - (4) The burrow was damaged in connection with temporary disturbances caused by public or utility-related projects where such activities were conducted in conformity with best management practices within an area containing prairie dog habitat;

⁷ This change simplifies the references to the existing industrial zoning districts. If new zones are every added, this section wouldn't have to be updated each time.

⁸ This change simplifies the references to the existing residential zoning districts. If new zones are every added, this section wouldn't have to be updated each time.

- (5) The burrow was damaged by a person who owned, or was responsible for operating, a dam or other existing structure where the structural integrity or the safety of the dam or structure was threatened by the burrow or by burrowing;
- (6) The burrow was on the property of a detached dwelling unit in which the person who destroyed the burrow, or authorized its destruction, was residing;
- (7) Activities were undertaken by a permitted academic investigator or by a city or state employee while in the process of bona fide research related to animal control or protection issues;
- (8) The burrow was damaged during the process of utilizing lethal means of control in conformity with the provisions of this chapter; or
- (9) The burrow was damaged in connection with an ongoing and continuous program approved by the city manager that was designed to prevent recolonization of lands from which prairie dogs had previously been lawfully removed, but only where such program had been initiated immediately following the lawful removal.

Section 15. Section 6-1-36(h), “Procedures for Obtaining Prairie Dog Lethal Control Permits,” B.R.C. 1981, is amended to read as follows:

6-1-36. Procedures for Obtaining Prairie Dog Lethal Control Permits.

...

- (h) Owners or occupants of residential lots containing a detached dwelling unit may, at any time, obtain a lethal control permit to exterminate prairie dogs on their property. No fee shall be charged for such a lethal control permit and no waiting period longer than that period of time reasonably required to process an application shall be required.
- (1) The intent of the permit process for such residential lots is to provide a mechanism for the city to monitor prairie dog populations and related ecological issues within its boundaries while allowing owners or occupants of small residential lots to respond to the presence of unwanted wildlife.
- (2) Applications for a lethal control permit for such residential lots shall be approved upon receipt of the following information:
 - (A) Address of the subject property;
 - (B) The name and telephone number of the applicant;
 - (C) The date of application;
 - (D) A demonstration of compliance with any applicable state and federal regulations pertaining to the utilization of lethal control measures; and

- (E) Such other information as the manager may require to adequately evaluate such requests, their purposes, and the expected outcomes of the use of lethal control measures.
- (3) Lots containing multi-unit residential structures shall not qualify for treatment under this subsection.

Section 16. Section 6-3-3, “Accumulation of Trash, Recyclables, and Compostables

Prohibited,” B.R.C. 1981, is amended to read as follows:

6-3-3. Accumulation of Trash, Recyclables, and Compostables Prohibited.

- (a) No owner of any vacant land or property; occupant, owner, or manager of any detached dwelling unit or similar property; owner, manager, or operator of any multi-unit dwelling, private club, or similar property; or owner, operator, manager, or employee of any commercial or industrial establishment or similar property shall fail to:
 - (1) Prevent the accumulation of trash, recyclables, and compostables that are visible to the public on such property and on the public right-of-way adjacent to the property;
 - (2) Remove trash, recyclables, and compostables located on such property and on the public right-of-way adjacent to the property;
 - (3) Remove trash frequently enough so that it does not cause putrid odors on the property;
 - (4) Remove or repair broken or damaged windows located on such property.
However, it shall be an affirmative defense to a violation of this provision that a person is a tenant who, under the terms of the tenancy, is not responsible for the maintenance of that property and who failed to address a particular maintenance issue for that reason;
 - (5) Remove accumulated newspapers or other periodical publications from such property when such accumulated newspapers or publications are visible to the public and remain so for a period of more than twenty-four hours. It shall be an affirmative defense to any alleged violation of this paragraph that no more than three such newspapers or periodicals were accumulated for each residential unit or each business entity located on the property and that no newspaper or periodical more than three days old is located on the property; and
 - (6) Sufficiently bundle or contain recyclable materials so that those materials are not scattered onto the public right-of-way or onto other properties.
- (b) No owner of any property shall fail to maintain in effect a current and valid contract with one or more haulers providing for the removal of accumulated trash, recyclables and compostables from the property, which contract shall provide for sufficient trash, recyclables and compostable materials hauling to accommodate the regular accumulation of trash, recyclables and compostables from the property. Properties containing one or more

rental dwelling units shall maintain a contract for the collection of trash no less frequently than on a biweekly basis.

- (c) No property owner or contractor in charge of any construction site or responsible for any construction activity shall fail to:
 - (1) Prevent trash from being scattered onto the public right-of-way or onto other properties; and
 - (2) Ensure that all trash generated by construction and related activities or located on the site of construction projects is picked up at the end of each workday and placed in containers sufficient to prevent such trash from being scattered onto the public right-of-way or onto other properties.
- (d) No owner, operator, or manager of any restaurant, brewpub, tavern, or any other business shall fail to:
 - (1) Prevent trash from being scattered from the business property onto the public right-of-way or onto other properties; and
 - (2) Remove or cause to remove immediately after closing all trash located on an outdoor seating area of the establishment and on the public right-of-way adjacent to the establishment.
- (e) If the city manager finds a violation of any provision of this section, the manager, after notice and an opportunity for hearing under the procedures prescribed by Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, may impose a civil penalty according to the following schedule:
 - (1) For the first violation of the provision, \$100;
 - (2) For the second violation of the same provision, \$250;
 - (3) For the third violation of the same provision, \$500; and
 - (4) The hearing officer may adjust the penalty, based on evidence presented at a hearing.
- (f) The city manager's authority under this section is in addition to any other authority the manager has to enforce this chapter, including but not limited to Section 5-2-4, "General Penalties," B.R.C. 1981, and election of one remedy by the manager shall not preclude resorting to any other remedy as well.
- (g) Notice under this subsection is sufficient if hand delivered, emailed, mailed, or telephoned to such person, or by posting on the premises.

Section 17. Section 6-3-4, "Containers Required," B.R.C. 1981, is amended to read as follows:

6-3-4. Containers Required.

No owner or occupant of any detached dwelling unit; owner or manager of any multi--unit dwelling or private club; or owner, operator, or manager of any business; or any similar property shall fail to provide at all times one or more trash containers on such property. Such containers shall be of a size sufficient to accommodate the regular accumulation of trash from the property.

Section 18. Section 6-3-12, "Bear-Resistant Containers Required," B.R.C. 1981, is amended to read as follows:

6-3-12. Bear-Resistant Containers Required.

- (a) No private owner, agent appointed pursuant to Section 10-3-14, "Local Agent Required," B.R.C. 1981, or manager of any property, lessee leasing the entire premises, or adult occupant of a detached dwelling unit, a duplex, a triplex, or a fourplex shall fail to keep all refuse attractants in bear resistant enclosures, in bear resistant containers, bear resistant dumpsters or securely stored within a house, garage, shed or other structure at least as secure as a bear resistant enclosure at all times, except when being transported from a house, garage or bear resistant enclosure for pickup. Refuse attractants transported for pickup not in a bear resistant container shall be attended, by a person remaining within 15 feet of the container at all times. It is not a defense to a violation of this section that a container or enclosure was damaged and the owner had not received the notice under subsection (d) below.
- (b) No person shall place into the public right-of-way or front yard setback any bear-resistant container that is not securely closed, regardless of whether it contains refuse attractants.
- (c) This section shall apply to the area bounded by Broadway Street, the city's southern boundary, the city's western boundary and a line extended from Sumac Avenue due west through Wonderland Lake Park. Provided that the city manager may extend the area by rule adopted pursuant to Section 6-3-11 "City Manager Authorized to Issue Rules," B.R.C. 1981.
- (d) No private owner, agent appointed pursuant to Section 10-3-14, "Local Agent Required," B.R.C. 1981, or manager of any property, lessee leasing the entire premises, or adult occupant of a detached dwelling unit, a duplex, a triplex, or a fourplex shall fail to repair a damaged container or enclosure within seventy-two hours after written notification by any city official, or such other time designated in the notice by the city official.
- (e) If the city manager finds a violation of any provision of this section, the manager, after notice and an opportunity for hearing under the procedures prescribed by Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, may impose a civil penalty according to the following schedule:

- (1) For the first violation of the provision, \$100.00;
 - (2) For the second violation of the same provision, \$250.00;
 - (3) For the third violation of the same provision, \$500.00; and
 - (4) The hearing officer may adjust the penalty, based on evidence presented at a hearing.
- (f) The city manager's authority under this section is in addition to any other authority the manager has to enforce this chapter, including but not limited to Section 5-2-4, "General Penalties," B.R.C. 1981, and election of one remedy by the manager shall not preclude resorting to any other remedy as well.
 - (g) The city manager may, in addition to taking other collection remedies, certify due and unpaid charges to the Boulder County Treasurer for collection as provided by Section 2-2-12, "City Manager May Certify Taxes, Charges, and Assessments to County Treasurer for Collection," B.R.C. 1981.
 - (h) Notice under this subsection is sufficient if hand delivered, emailed, mailed, or telephoned to such person, or by posting on the premises.

Section 19. Section 6-4-9, "Entryway," B.R.C. 1981, is amended to read as follows:

6-4-9. Entryway.

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

Section 20. Section 6-10-11(g), "Pre-Application Notification of Airborne Application," B.R.C. 1981, is amended to read as follows:

6-10-11(g). Pre-Application Notification of Airborne Application.

- (g) If a commercial property or an attached (i.e., multi-unit) residential dwelling is located adjacent to property on which an airborne application of any pesticide is to occur as set forth above, no contracting party or other user of pesticides shall fail to make a reasonable attempt to notify the owner or manager of the property at least forty-eight hours prior to the pesticide application. Upon receipt of such notice, such owner or manager shall not fail to post in a prominent place the information that the adjacent property will be treated.

Section 21. Section 6-12-2, "Definitions," B.R.C. 1981, is amended to read as follows:

Multi-unit customer means the residents, taken together, of a residential building or set of residential buildings that uses a collective, common system for the collection of trash generated by the residents.

Section 22. Section 6-12-5, "Disposition of Recyclable or Compostable Materials," B.R.C. 1981, is amended to read as follows:

6-12-5. Containers for Recycling or Composting Collection.

- (a) Haulers providing trash collection service to multi-unit customers through centralized collection areas shall provide containers for recyclable materials at no additional charge. Containers shall be of a sufficient size to accommodate the regular accumulation of recyclables from that customer, but, at a minimum, such containers shall be of a volume equal to one-half of the volume of the trash collection service. If the city manager requires the collection of compostables, haulers shall provide containers for that service of a sufficient size to accommodate the regular accumulation of compostables from that customer.
- (b) Haulers providing trash collection service to residential customers are not required to provide recyclables or compostables containers. However, if the hauler requires a specific type of container, then the hauler shall deliver such container at no cost to the residential customer. This provision does not apply to any container required by the city pursuant to Section 6-3-12, "Bear-Resistant Containers," B.R.C. 1981.

Section 23. Section 6-12-6, "Disposition of Recyclable or Compostable Materials," B.R.C. 1981, is amended to read as follows:

6-12-6. Disposition of Recyclable or Compostable Materials.

- (a) No person other than the person placing the recyclables or compostables for collection or that person's designated hauler shall take physical possession of any recyclables or compostables separated from trash, set out in the vicinity of the curb or alleys, and plainly marked for recyclables or compostables collection.
- (b) Each property owner, property manager, residential customer, commercial customer, or multi-unit customer shall relinquish recyclable materials to a hauler only on the condition that the hauler deliver the recyclable materials only to a recyclables processing center as set forth in subparagraph (c) below.
- (c) It shall be presumed that each property owner, property manager, residential customer, commercial customer or multifamily customer has designated both single stream and source-separated, clean fiber recyclable materials as defined by city manager rules to be hauled to the recyclables processing center owned by Boulder

County or its successor in interest ("Boulder County Recycling Center"). The City Manager may designate conditions under which the presumption in this subsection (c) shall not apply with respect to source-separated, clean fiber recyclable materials.

- (d) Haulers shall take all compostable materials collected to a compost facility that is in compliance with state composting regulations and can certify that the material is processed into a compost or biogas product. Alternatively, haulers may deliver compostable materials to a facility that repurposes the materials for beneficial uses, such as feeding animals, if the facility is in compliance with all federal, state and local laws. Haulers shall maintain receipts and records for a period of five years. Upon request by any customer or the city manager, haulers shall produce receipts from the facility utilized.

Section 24. Section 7-6-14, "Unauthorized Parking Prohibited," B.R.C. 1981, is amended to read as follows:

7-6-14. Unauthorized Parking Prohibited.

- (a) No vehicle shall be parked upon any public or private property without the express or implied consent of the owner, lessee or occupant of the property or for a time period in excess of or in a manner other than that for which consent was given by such person.
- (b) For the purposes of this section, there is an implied consent to park in areas set aside for parking on any private or public property except on property used as a detached dwelling unit, but such implied consent is deemed revoked with respect to any person who has parked a vehicle or has allowed a vehicle to remain parked in disregard of or contrary to the direction or intended function of any of the following:
- (1) A parking attendant, a card or coin-operated gate or any other means calculated to bar or otherwise control entrance onto or use of the property by unauthorized vehicles;
 - (2) Parking meters or pay stations located on the property;
 - (3) Signs or pavement markings located on the property indicating a limitation or prohibition on parking thereupon or that a parking fee must be paid, if the signs or markings:
 - (A) Clearly indicate, in not less than one-inch-high lettering on a sign or twelve-inch-high lettering or symbols on the pavement, the limitation, prohibition or fee schedule and method of payment;
 - (B) Are located in or near the area where the limitation, prohibition or fee applies; and
 - (C) Are located so as to be seen by an ordinarily observant person; or
 - (4) Any other method of express revocation of implied consent communicated directly to the owner or driver of the vehicle by the owner of the property or the owner's authorized agent.

Section 25. Section 7-6-24, “All-Night Parking of Commercial Vehicle, Camper or Motor Home, or Trailer Prohibited,” B.R.C. 1981, is amended to read as follows:

7-6-24. All-Night Parking of Commercial Vehicle, Camper or Motor Home, or Trailer Prohibited.

- (a) No commercial vehicle shall be parked on any street in any district of the city zoned RR-1, RR-2, RE, RL-1, RL-2, RM-1, RM-2, RM-3, RMX-1, RMX-2, RH-1, RH-2, RH-3, RH-4, RH-5, RH-6, RH-7⁹, MH, P, or A for more than thirty minutes between 8 p.m. and 7 a.m. The penalty for a first violation of this section is \$40. The penalty for a second violation of this section by the same vehicle or the same registered owner of a vehicle is \$50. The penalty for a third and any subsequent violation of this section by the same vehicle or the same registered owner of a vehicle is \$60.
- (b) No camper, motor home, or trailer shall be parked on any street except as follows:
 - (1) When located directly on a street frontage of the detached dwelling unit or multi-unit dwelling of the vehicle's registered owner for a consecutive period of forty-eight hours or less;
 - (2) For a maximum of seventy-two hours when providing a service to a residence or business located directly adjacent to the parked vehicle; or
 - (3) In compliance with the terms and conditions of a permit issued by the city manager; or
 - (4) The penalty for a first violation of this section is \$40. The penalty for a second violation of this section by the same vehicle or the same registered owner of a vehicle is \$50. The penalty for a third and any subsequent violation of this section by the same vehicle or the same registered owner of a vehicle is \$60.
- (c) It shall not be a defense to this section that the camper, motor home, or trailer has been moved to a different location on any street. To be in compliance with this section, the vehicle must be removed from the street.

Section 26. Section 7-7-5, “Private Towing and Impounding of Vehicle Parked Without Authorization on Private Property,” B.R.C. 1981, is amended to read as follows:

7-7-5. Private Towing and Impounding of Vehicle Parked Without Authorization on Private Property.

- (a) The owner or lessee of real property or an agent authorized by the owner or lessee may cause any motor vehicle, parked on such property without the permission of the owner, lessee or occupant of the property, to be removed or impounded by a towing carrier, but,

⁹ These zones are relatively new and are added here for consistency.

except on property used as a detached dwelling unit, only if any applicable requirements of Subsection 7-6-14(b), B.R.C. 1981, and subsection (b) of this section have been met. It is not necessary that a citation be issued for violation of Section 7-6-14, "Unauthorized Parking Prohibited," B.R.C. 1981, for a vehicle to be removed or impounded pursuant to this section.

- (b) Except on property used as a detached dwelling unit, the owner, lessee or occupant of real property or an agent thereof, prior to causing the removal and impoundment of a motor vehicle from any area set aside for motor vehicle parking on such person's property, shall:
 - (1) Provide clear notice on signs or pavement markings meeting the requirements of Paragraph 7-6-14(b)(3), B.R.C. 1981, that unauthorized vehicles will be towed away at the owner's expense, including the name and telephone number of each towing company authorized to remove any vehicle;
 - (A) Provided however, after April 1, 2019, all such signs shall include a symbol depicting a tow truck towing a car as set forth in regulations adopted by the city manager; and
 - (B) The requirements of subsection (A) above shall not apply to commercial non-residential properties except for external remodel, change of ownership and new construction; and
 - (C) The requirements of subsection (A) shall not apply to residential properties unless there are more than five tows in any twelve-month period or there is an external remodel, change of ownership or new construction.
 - (2) Not receive any payment monetary or otherwise from any towing company.
- (c) A vehicle parked on private property in violation of Section 7-6-14, "Unauthorized Parking Prohibited," B.R.C. 1981, is subject to immediate towing under state law as an abandoned vehicle on private property if the provisions of subsection (b) of this section are also met. Furthermore, any motor vehicle left unattended on private property for a period of twenty-four hours or longer without the consent of the owner or lessee of such property or the owner's or lessee's legally authorized agent is also subject to immediate towing under state law as an abandoned vehicle on private property.
- (d) Vehicles towed pursuant to this section are privately impounded. All actions by the towing carrier and others shall be in accordance with and pursuant to the state statutes and regulations governing private tows of abandoned vehicles and pursuant to Section 7-7-11, "Towing Regulations," B.R.C. 1981.
- (e) Disputes concerning the propriety of impoundments under this section shall be settled by the parties involved in the civil courts, and the city shall not be a proper party defendant in any such suit.

Section 27. Section 8-2-13, “Duty to Keep Sidewalks Clear of Snow,” B.R.C. 1981, is amended to read as follows:

8-2-13. Duty to Keep Sidewalks Clear of Snow.

- (a) Removal of Snow, Ice, and Sleet from Sidewalks Required. No private owner, agent appointed pursuant to Section 10-3-14, "Local Agent Required," B.R.C. 1981, or manager of any property, lessee leasing the entire premises, or adult occupant of a detached dwelling unit, a duplex, a triplex, or a fourplex shall fail to keep all public sidewalks and walkways abutting the premises such person owns, leases, or occupies clear of snow, ice, and sleet, as provided in this section. Such persons are jointly and severally liable for such responsibility, criminally and administratively. Such persons shall remove any accumulation after any snowfall or snowdrift as promptly as reasonably possible and no later than twenty-four hours after the snowfall or the formation of the snowdrift. Such persons shall remove the snow, ice, or sleet from the full width of all sidewalks and walkways, except those with a width exceeding five feet, which must be cleared to a width of at least five feet.
 - (b) City Manager Authorized to Correct Hazardous Situations on Sidewalks With Snow, Ice, or Sleet. The city manager has the authority to cause any sidewalk to be cleared of snow, ice, and sleet. If the city manager intends to charge any person responsible for keeping public sidewalks and walkways abutting the premises clear of snow, ice, and sleet, the manager will satisfy the requirements of this section.
 - (c) Findings and Notice. If the city manager finds that any portion of a sidewalk or walkway has not been cleared of snow, ice, and sleet as required by Subsection (a) of this section and that a hazardous condition exists, the manager is authorized to charge the costs of clearing the snow, ice, or sleet to the person responsible under this section.
- (1) The city manager will notify the owner, agent appointed pursuant to Section 10-3-14, "Local Agent Required," B.R.C. 1981, or manager of any property, the lessee leasing the entire premises or any adult occupant of a detached dwelling unit, a duplex, a triplex, or a fourplex, that such person must remove the snow within the earlier of twenty-four hours or 12 noon of the day following the notice.

Section 29. Section 8-9-2, “Definitions,” B.R.C. 1981, is amended to reach as follows:

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¹⁰ These definitions are proposed for removal since they use the term “family” but more importantly that they are not even used in the chapter.

Section 30. Section 9-2-3, "Variances and Interpretations," B.R.C. 1981, is amended to read as follows:

9-2-3. Variances and Interpretations.

- (a) Purpose: This section identifies those standards that can be varied by either the city manager or the Board of Zoning Adjustment (BOZA). Some standards can be varied by the city manager through an administrative Review process, others by BOZA by another level of administrative Review. The city manager may defer any administrative decision pursuant to this section to BOZA. This section also identifies which city manager interpretations of this title may be appealed to BOZA and establishes a process for such appeals.
- (b) Interpretations: The city manager may decide questions of interpretation and application of the regulations of this title as a ministerial function. Interpretations made by the city manager of Chapters 9-6, "Use Standards," 9-7, "Form and Bulk Standards," and 9-8, "Intensity Standards," B.R.C. 1981, may be appealed to the BOZA by filing an application in compliance with this section.
 - (1) Planning Board Call-Up: A member of the planning board may call-up any interpretation of the BOZA through the procedures of Section 9-4-4, "Appeals, Call-Ups, and Public Hearings," B.R.C. 1981. The planning board may consider the record, or any portion thereof, of the hearing before the BOZA in its consideration of the matter.
 - (2) City Council Call-Up: The city council may call-up for review any interpretation of the BOZA upon which the planning board has acted pursuant to the procedures of Section 9-4-4, "Appeals, Call-Ups and Public Hearings," B.R.C. 1981. The council may consider the record, or any portion thereof, of the hearing before the planning board in its consideration of the matter.
- (c) Administrative Variances: The city manager may grant a variance from:
 - (1) The minimum yard setback requirement and the building separation requirements of Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, of up to twenty percent of the required yard setback, if the manager finds that the application satisfies all of the requirements in Subsection (h) of this section and if the applicant obtains the written approvals of impacted property owners.
 - (2) The minimum requirements of Section 9-7-9, "Side Yard Bulk Plane," and Section 9-7-10, "Side Yard Wall Articulation," for lots 4,600 square feet or less or for lots forty-eight feet in width or less based on the average lot width measured at the front yard setback, midpoint of the lot and the rear yard setback, if the city manager finds that the application satisfies all of the requirements of Paragraph (h)(5) of this section.
 - (3) The minimum requirements of Section 9-7-11, "Maximum Building Coverage," and Section 9-8-2, "Floor Area Ratio Requirements," to existing detached dwelling units,

by up to two hundred square feet. The purpose of this administrative variance is to permit minor modifications to detached dwelling units that will allow residents or a family member of a head of household with existing or anticipated impairments that restricts their ability to perform a major life activity to be in the home. This variance may be granted if the city manager finds that:

- (A) The request meets the requirements of Subparagraphs (h)(5)(A) and (B) of this section; and
 - (B) The improvements are necessary to remedy any impairment, or anticipated impairment, that would prohibit or significantly restrict a resident's or a family member of a head of household's ability to perform a major life activity as compared to the ability of the average person in the general population to perform the same activity.
- (4) The height of the plane above a side lot line in bulk plane requirements of Section 9-7-9, "Side Yard Bulk Plane," B.R.C. 1981, and the side yard wall articulation standards of Section 9-7-10, "Side Yard Wall Articulation Standards," B.R.C. 1981, may vary by up to twenty percent and the building coverage requirements of Section 9-7-11, "Maximum Building Coverage," or the floor area ratio requirements of Section 9-8-2, "Floor Area Ratio Requirements," by up to two hundred square feet for existing detached dwelling units if the manager finds that the application satisfies all of the requirements in Subsection (h) of this section.
- (5) Maximum variance that may be granted to a lot under paragraph (3) or (4) above shall be a total of two hundred square feet of floor area or building coverage.
- (6) If written approvals of impacted property owners cannot be obtained, the applicant may apply for consideration of the variance before the BOZA.
- (7) Applicants shall apply for the variance on a form provided by the city manager and shall pay the application fee required by title 4, "Licenses and Permits," B.R.C. 1981, at time of submittal of the application.
- (8) The city manager may also grant variances or refer variance requests to the BOZA to allow development not in conformance with the provisions of this title which otherwise would result in a violation of federal or state legislation or regulation, including but not limited to the Federal Fair Housing Act or the Americans with Disabilities Act.

Section 31. Section 9-3-11, "Medium Density Overlay Zone," B.R.C. 1981, is amended to read as follows: 9-3-11. Medium Density Overlay Zone.

- (a) Purpose and Scope: Medium density residential areas adjacent to the downtown central business district originally developed with a character predominately composed of detached dwelling units and are now redeveloping with higher densities. Development and

redevelopment in certain RM-2 and RM-3 zoning districts has been very disruptive of the existing residential character of those areas, has failed to preserve certain historic structures, has led to many inappropriate structures being erected and thus has negatively affected the value of adjoining properties. The medium density overlay zone map which designates those portions of the medium density areas to which this section applies is set forth as Appendix D, "Medium Density Overlay Zone," of this title.

(b) Additional Regulations: The following additional regulations shall apply in the medium density residential overlay zone:

(1) No person shall construct a second detached dwelling on a lot as set forth in Section 9-7-12, "Two Detached Dwellings on a Single Lot," B.R.C. 1981.

(2) No person shall create additional multidwelling units except that one additional dwelling unit per lot may be created by internal conversions of existing principal structures that are not enlarged in size subsequent to September 2, 1993, and provided that such conversions do not involve exterior modifications other than for access, including, without limitation, doors, windows and stairways.

Section 32. Section 9-3-12, "Opportunity Zone Overlay," B.R.C. 1981, is amended to read as follows:9-3-12. Opportunity Zone Overlay.

(a) Legislative Intent: The purpose of this section is to enact an overlay zone for Census Tract 122.03, described in Appendix O, "Census Tract 122.03," and associated standards in order to protect the public health, safety and welfare:

(1) Federal Census Tract 122.03 was certified by the federal government as an opportunity zone;

(2) Investors in the opportunity zone, through opportunity zone funds, will receive favorable tax relief as an incentive to invest in business and real estate within Census Tract 122.03;

(3) It is anticipated that opportunity zone funds may lead to accelerated investment in Census Tract 122.03;

(4) The Boulder Valley Comprehensive Plan provides that the city will work with neighborhoods to protect and enhance neighborhood character and livability and preserve the relative affordability of existing housing stock;

(5) The Boulder Valley Comprehensive Plan describes that the city will make special efforts to preserve and rehabilitate existing housing servicing low-, moderate-, and middle-income households; and

(6) It is the intent of this section to prevent accelerated demolition of the existing relatively affordable multi-unit dwelling housing stock in Census Tract 122.03 to protect existing

neighborhood character in this area and preserve the existing housing stock and its relative affordability.

- (b) **Applicability of this Section:** The standards of this section shall apply during that period of time that Census Tract 122.03 is a qualified opportunity zone, as that term is defined in 26 U.S.C. § 1400Z-1, or any successor legislation.
- (c) **No Demolition:** Except as expressly allowed under subsection (e), no person shall carry out or permit demolition of a building or part thereof that results in removal of any attached dwelling unit in Census Tract 122.03.
- (d) **No Demolition Applications:** The city manager shall not accept any demolition or development application that proposes the demolition of a building or a part thereof and results in removal of any attached dwelling unit in Census Tract 122.03 unless the application proposes work allowed under subsection (e).
- (e) **Unsafe Buildings:** As an exception to the standards of this section, a building or part thereof may be demolished if the city manager has declared the building or relevant part thereof to be unsafe or dangerous to the general public, residents, or property or otherwise unfit for human occupancy, and such that it is unreasonable to repair the structure or relevant part thereof. In making such determination, the city manager will consider the deficiencies of the structure or part thereof, including without limitation, damage, decay, faulty construction, potential for collapse, disrepair or the presence of health and safety concerns such as unsanitary conditions, infestation of rats or vermin, the presence of filth and contamination, or other conditions that constitute a hazard to residents or the public.
- (f) **Maintenance:** The city council intends to preserve from deliberate or inadvertent neglect attached dwelling units in Census Tract 122.03. No owner, lessee or occupant of an attached dwelling unit shall fail to comply with the ordinances of the city regulating property maintenance, including without limitation Chapter 10-2, "Property Maintenance Code," B.R.C. 1981.

Section 33. Section 9-5-2, "Zoning Districts," B.R.C. 1981, is amended to read as follows:

9-5-2. Zoning Districts.

- (a) **Classification:** Zoning districts are classified according to the following classifications based on the predominant character of development and current or intended use in an area of the community:
 - (1) R: Residential;
 - (2) M: Mixed Use, a mix of residential and business;
 - (3) B: Business;
 - (4) DT: Downtown business zones;
 - (5) I: Industrial;
 - (6) P: Public;
 - (7) A: Agricultural.

- (b) Zoning Districts: Under the classifications defined in Subsection (a) of this section, the particular zoning districts established for the city are as in table 5-1 of this section:

TABLE 5-1: ZONING DISTRICTS

<i>Classification</i>	<i>Zoning District (Abbreviation)</i>	<i>Use Module</i>	<i>Form Module</i>	<i>Intensity Module</i>	<i>Former Zoning District Abbreviation</i>
Residential	Residential - Rural 1 (RR-1)	R1	a	2	RR-E
	Residential - Rural 2 (RR-2)	R1	b	2	RR1-E
	Residential - Estate (RE)	R1	b	3	ER-E
	Residential - Low 1 (RL-1)	R1	d	4	LR-E
	Residential - Low 2 (RL-2)	R2	g	6	LR-D
	Residential - Medium 1 (RM-1)	R3	g	9	MR-D
	Residential - Medium 2 (RM-2)	R2	d	13	MR-E
	Residential - Medium 3 (RM-3)	R3	j	13	MR-X
	Residential - Mixed 1 (RMX-1)	R4	d	7	MXR-E
	Residential - Mixed 2 (RMX-2)	R5	k	8	MXR-D
	Residential - High 1 (RH-1)	R6	j	12	HR-X
	Residential - High 2 (RH-2)	R6	c	12	HZ-E
	Residential - High 3 (RH-3)	R7	l	14	HR1-X
	Residential - High 4 (RH-4)	R6	h	15	HR-D
	Residential - High 5 (RH-5)	R6	c	19	HR-E
	Residential - High 6 (RH-6)	R8	j	17.5	-
	Residential - High 7 (RH-7)	R7	l	14.5	-
	Mobile Home (MH)	MH	s	-	MH-E

Mixed Use	Mixed Use 1 (MU-1)	M2	i	18	MU-D
	Mixed Use 2 (MU-2)	M3	r	18	RMS-X
	Mixed Use 3 (MU-3)	M1	n	24	MU-X
	Mixed Use 4 (MU-4)	M4	o	24.5	-
Business	Business - Transitional 1 (BT-1)	B1	f	15	TB-D
	Business - Transitional 2 (BT-2)	B1	e	21	TB-E
	Business - Main Street (BMS)	B2	o	17	BMS-X
	Business - Community 1 (BC-1)	B3	f	19	CB-D
	Business - Community 2 (BC-2)	B3	f	19	CB-E
	Business - Commercial Services (BCS)	B4	m	28	CS-E
	Business - Regional 1 (BR-1)	B5	f	23	RB-E
	Business - Regional 2 (BR-2)	B5	f	16	RB-D
Downtown	Downtown 1 (DT-1)	D3	p	25	RB3-X/E
	Downtown 2 (DT-2)	D3	p	26	RB2-X
	Downtown 3 (DT-3)	D3	p	27	RB2-E
	Downtown 4 (DT-4)	D1	q	27	RB1-E
	Downtown 5 (DT-5)	D2	p	27	RB1-X
Industrial	Industrial - Service 1 (IS-1)	I1	f	11	IS-E
	Industrial - Service 2 (IS-2)	I1	f	10	IS-D
	Industrial - General (IG)	I2	f	22	IG-E/D
	Industrial - Manufacturing (IM)	I3	f	20	IM-E/D
	Industrial - Mixed Services (IMS)	I4	r	18	IMS-X
Public	Public (P)	P	c	5	P-E
Agricultural	Agricultural (A)	A	a	1	A-E
Flex District	Flex (F)	TBD	TBD	TBD	n/a

(c) Zoning District Purposes:

(1) Residential Districts and Complementary Uses:

- (A) Residential - Rural 1, Residential - Rural 2, Residential - Estate, and Residential - Low 1: Primarily detached dwelling units with some duplexes and attached dwelling units at low to very low residential densities.
- (B) Residential - Low 2, and Residential - Medium 2: Medium density residential areas primarily used for small-lot residential development, including without limitation, duplexes, triplexes, or townhouses, where each unit generally has direct access at ground level.
- (C) Residential - Medium 1, and Residential - Medium 3: Medium density residential areas which have been or are to be primarily used for attached residential development, where each unit generally has direct access to ground level, and where complementary uses may be permitted under certain conditions.
- (D) Residential - Mixed 1: Mixed density residential areas with a variety of detached dwelling units, duplexes, and multi- unit dwellings that will be maintained; and where existing structures may be renovated or rehabilitated.
- (E) Residential - Mixed 2: Medium density residential areas which have a mix of densities from low density to high density and where complementary uses may be permitted.
- (F) Residential - High 1, Residential - High 2, Residential - High 4, Residential - High 5: High density residential areas primarily used for a variety of types of attached residential units, including without limitation, apartment buildings, and where complementary uses may be allowed.
- (G) Residential - High 3: High density residential areas in the process of changing to high density residential uses and limited pedestrian-oriented neighborhood-serving retail uses in close proximity to either a primary destination or a transit center and where complementary uses may be allowed.
- (H) Residential - High 6: High density residential urban areas that are predominately townhouses in close proximity to either a primary destination or a transit center and where complementary uses may be allowed.
- (I) Residential - High 7: High density residential areas that have a fine grain of residential streets either existing or as part of a right-of-way plan approved by the city council and limited pedestrian-oriented neighborhood-serving retail uses in close proximity to either a primary destination or a transit center and where complementary uses may be allowed.

Section 34. Section 9-6-3, “Specific Use Standards - Residential Uses,” B.R.C. 1981, is amended to read as follows:

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

- (j) **Congregate Care Facility, Custodial Care Facility, and Residential Care Facility:**

- (1) **Applicability:** This subsection (j) sets forth standards for congregate care facilities, custodial care facilities, and residential care facilities that are subject to specific use standards pursuant to Table 6-1, Use Table.
- (2) **Intensity:** The number of dwelling units or sleeping rooms or accommodations shall be consistent with Section 9-8-6, “Density Equivalencies for Group Residences and Hostels,” B.R.C. 1981.¹¹

...

(l) Group Home Facility:

- (1) The following standards apply to any group home facility that may be approved as a conditional use or pursuant to a use review:
 - (A) **General Standards:** Any group home facility approved as a conditional use or pursuant to a use review shall meet the following standards:
 - (i) **Intensity:** The number of dwelling units or sleeping rooms or accommodations shall be consistent with Section 9-8-6, “Density Equivalencies for Group Residences and Hostels,” B.R.C. 1981.¹²
 - (ii) **Concentration:** In order to prevent the potential creation of an institutional setting by concentration of group homes in a neighborhood, no group home facility may locate within three hundred feet of another group home facility, but the city manager may permit two such facilities to be located closer than three hundred feet apart if they are separated by a physical barrier, including, without limitation, an arterial, a collector, a commercial district or a topographic feature that avoids the need for dispersal. The planning department will maintain a map showing the locations of all group home facilities in the city.
 - (iii) **Safety:** No person shall make a group home facility available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others. A determination that a person poses a direct threat to the health or safety of others or a risk of substantial physical damage to property must be based on a history of overt acts or current conduct of that individual and must not be based on general assumptions or fears about a class of disabled persons.

¹¹ Density equivalency standards already exist in Section 9-8-6. As the current language links to limiting occupancy of units, staff is recommending that it be removed for conflict with state law and also the Fair Housing Act. The intensity would still be limited on multi-family lots consistent with existing congregate care standards.

¹² Same as the prior footnote.

(m) Transitional Housing:

- (1) The following standards apply to any transitional housing facility that may be approved as a conditional use or pursuant to a use review:
 - (A) General Standards: Any transitional housing approved as a conditional use or pursuant to a use review shall meet the following standards:
 - (i) Density: The maximum number of dwelling units with transitional housing facility shall be the same as is permitted within the underlying zoning district, except that for any zoning district that is classified as an industrial zoning district pursuant to Section 9-5-2, "Zoning Districts," B.R.C. 1981, the number of dwelling units permitted shall not exceed one dwelling unit for each one thousand six hundred square feet of lot area on the site.
 - ¹³(ii) Parking: The facility shall provide one off-street parking space for each dwelling unit on the site. The approving authority may grant a parking deferral of up to the higher of fifty percent of the required parking or what otherwise may be deferred in the zoning district if the applicant can demonstrate that the criteria set forth in Subsection 9-9-6(e), B.R.C. 1981, have been met.

Section 35. Section 9-6-5, "Specific Use Standards- Commercial Uses," B.R.C. 1981, is amended to read as follows:

9-6-5. Specific Use Standards - Commercial Uses.

FOOD, BEVERAGE, AND LODGING

(a) Bed and Breakfast:

- (1) The following standards apply to bed and breakfast uses that may be approved as a conditional use or pursuant to a use review:
 - (A) The structure is compatible with the character of the neighborhood in terms of height, setbacks, and bulk. Any modifications to the structure are compatible with the character of the neighborhood.
 - (B) One parking space is provided for each guest bedroom, and one space is provided for the operator or owner's unit in the building.
 - (C) No structure contains more than twelve guest rooms. The number of guest rooms shall not exceed the occupancy limitations set forth in Section 9-8-6, "Density Equivalencies for Group Residences and Hostels," B.R.C. 1981.

¹³ Occupancy will no longer be regulated in Title 9, but rather Title 10, which references the IPMC. This section is no longer necessary.

- (D) No cooking facilities including, without limitation, stoves, hot plates, or microwave ovens are permitted in the guest rooms. No person shall permit such use.
- (E) One attached exterior sign is permitted to identify the bed and breakfast, subject to the requirements of Section 9-9-21, "Signs," B.R.C. 1981.
- (F) No long-term rental of rooms is permitted. No person shall permit a guest to remain in a bed and breakfast for a period in excess of thirty days.
- (G) No restaurant use is permitted. No person shall serve meals to members of the public other than persons renting rooms for nightly occupancy and their guests.
- (H) No person shall check in or check out of a bed and breakfast or allow another to do so except between the times of 6 a.m. and 9 p.m.

Section 36. Section 9-7-2, "Setback Standards," B.R.C. 1981, is amended to read as

follows:

9-7-2. Setback Standards.

- (a) **Front Yard Setback Reductions:** The front yard setback required in Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, may be reduced for a principal structure on any lot if more than fifty percent of the principal buildings on the same block face or street face do not meet the required front yard setback. The setback for the adjacent buildings and other buildings on the block face shall be measured from the property line to the bulk of the building, excluding, without limitation, any unenclosed porches, decks, patios or steps. The bulk of the building setback shall not be less than the average bulk of the building setback for the principal buildings on the two adjacent lots. Where there is only one adjacent lot, the front yard setback reduction shall be based on the average of the principal building setbacks on the two closest lots on the same block face. (See Figure 7-1 of this section.)

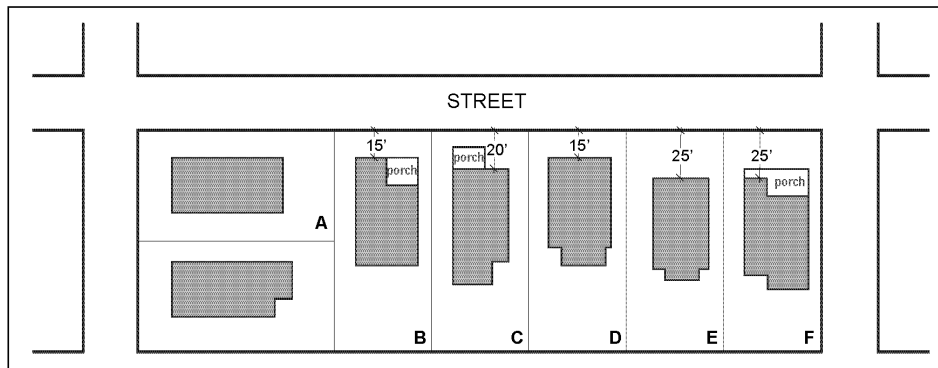


Figure 7-1: Setback Averaging Example

In this example, lots "B" through "F" are the face block. Lot "A" is not included in the face block, as the front of this lot is on a different street. Setback averaging is measured to the bulk of the buildings and does not include porches.

Assuming this block is zoned RL-1, the minimum required front yard setback would be twenty-five feet. The block face shown would qualify for setback averaging, as more than fifty percent of the principal buildings do not meet the required front yard setback. An addition to the front of lot "E" would require the averaging of the setbacks of lots "D" and "F", the two closest buildings on the same block face. In this example the resulting setback would be 20 feet - the average of lot "D" (fifteen feet) and lot "F" (twenty-five feet). An addition to the front of lot "F" would be based on the average of the two closest buildings on the same block face; in this case, lots "D" and "E."

(b) Side Yard Setback Standards:

- (1) Setbacks for Upper Floors in Non-Residential Zoning Districts: A principal building constructed with a side yard setback of zero for the first story above grade in the BC-2, BR-1, DT-1, DT-2, DT-3, DT-4, DT-5, IS-1, IG or IM zoning districts, where the side yard setback is noted as "0 or 12," may have upper stories set back either five feet or the distance required by Chapter 10-5 "Building Code," B.R.C. 1981, whichever is greater.
- (2) Maintenance Easements Required in Residential Zoning Districts: In residential zoning districts that allow a zero side yard or rear yard setback, the applicant shall be required to secure a recorded maintenance easement from the adjoining property owner if the zero setback side is not attached to another structure. The easement shall be effective for the life of the building. The easement shall not be less than three feet in width measured parallel to that portion of the building at zero setback.
- (3) Wall Height for Residential Zero Lot Line: The maximum wall height for detached dwelling units at the zero setback property line shall be twelve feet. Townhouses, consistent with Subparagraph (7), below, are not subject to this restriction.
- (4) Calculating Residential Zero Lot Line Side Yard Setbacks: For detached dwelling units, the side yard setback opposite the zero setback property line shall be the sum of both side yards for the district.
- (5) Combined Side Yard Setbacks: When combined side yard setbacks are required by Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, the resulting structure, including the existing structure and any addition, must meet the combined side yard setback requirements. (See Figure 7-2 of this section for compliant and noncompliant examples.)

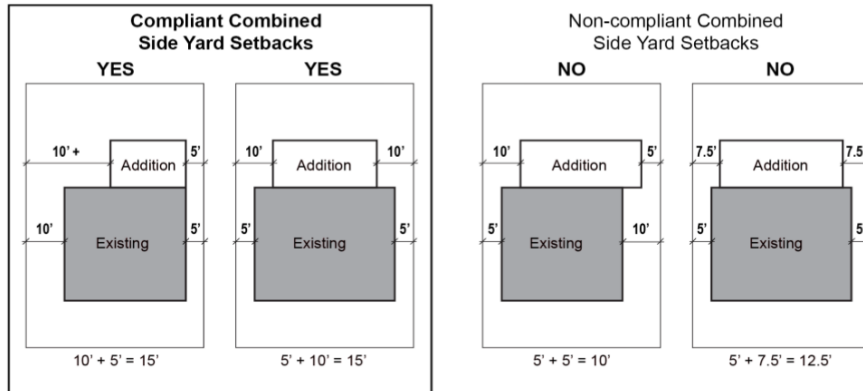


Figure 7-2: Combined Side Yard Setbacks

Example: In the RL-1 district, the combination of side yard setbacks must be no less than fifteen feet, with a minimum of five feet. Both existing structures and additions (hatched) are included in the calculation.

- (6) Existing Nonstandard Side Yard Setbacks for Existing Detached Dwelling Units: A second story addition that does not comply with the minimum interior or combined side yard setbacks may be added to an existing detached dwelling unit subject to the following:
- (A) The interior side yard setback for the existing detached dwelling unit complied with the setback requirements in existence at the time of initial construction and was not created by a variance or other procedure;
 - (B) The resulting interior side yard setback will not be less than five feet and combined side yard setbacks will not be less than ten feet;
 - (C) That portion of the building in the side yard setback shall vertically align with the existing first story wall.

Section 37. Section 9-7-8, “Accessory Buildings in Residential Zones,” B.R.C. 1981, is amended to read as follows:

9-7-8. Accessory Buildings in Residential Zones.

- (a) Maximum Building Coverage: In an RR, RE, RL or RMX-1 residential zoning district, unless the property has been designated as an individual landmark or is located within a historic district under Chapter 9-11, "Historic Preservation," B.R.C. 1981, the total cumulative building coverage of accessory buildings or structures between the principal

building rear yard setback and the rear yard property line shall not exceed five hundred square feet. For a property that has been designated as an individual landmark or is located within a historic district under Chapter 9-11, "Historic Preservation," B.R.C. 1981, such total cumulative building coverage may be increased to permit the addition of one new accessory building or structure of up to five hundred square feet of coverage if such property has existing structures within the principal building rear yard setback area. There shall be no limitation on building coverage for accessory buildings or structures located entirely within the principal building envelope except as set forth in the definition of "accessory building or structure," in Chapter 9-16, "Definitions," B.R.C. 1981.

- (b) **Connections Between a Dwelling Unit and an Accessory Building Located Within the Principal Building Envelope:** In a residential zoning district, a detached dwelling unit may be connected to an accessory building by a breezeway that is built in compliance with the principal building setback standards set forth in this chapter, or the principal building setback standards in place at the time of its construction, if the breezeway meets the following standards:
- (1) The sides of the breezeway shall be completely open except for structural support columns and the walls of the accessory structure and the dwelling unit to which it is attached.
 - (2) No useable floor area is located above the breezeway.
 - (3) The accessory building and the dwelling unit shall comply with the use limitations for such buildings set forth in Chapter 9-16, "Definitions," B.R.C. 1981.
 - (4) A breezeway shall be classified as building coverage for purposes of calculating the required open space for the dwelling unit.
- (c) **Breezeway Connections Between Accessory and Principal Buildings:** In a residential zoning district, a detached dwelling unit may be connected to an accessory building which is located partially or entirely within principal building rear yard setback by a breezeway if the breezeway meets the following standards:
- (1) No portion of the roof shall exceed a height of twelve feet, measured to the finished grade directly below it, or the height of the accessory building to which it is attached, whichever is less. (See Figure 7-8 of this section.)
 - (2) No walkways are permitted on the roof of a breezeway.
 - (3) The width of the breezeway, measured from the outside edge of the supporting columns, shall not exceed six feet.
 - (4) Each eave, measured from the outside edge of the supporting columns, to the fascia, shall not exceed eighteen inches.
 - (5) The sides of the breezeway above grade shall remain completely open except for structural support columns and the walls of the accessory building and the detached dwelling unit to which it is attached.
 - (6) The breezeway shall be set back from the interior side yard the greater of ten feet or the minimum principal building side yard setback for the underlying zoning district.

(7) Any portion of a breezeway that is located within the principal building rear yard setback shall be included in the maximum coverage limitations for accessory buildings set forth in subsection (a) of this section.

(8) A breezeway may be building coverage pursuant to Section 9-16-1, "General Definitions, B.R.C. 1981 and subject to Section 9-7-11, "Maximum Building Coverage," B.R.C 1981.

Section 38. Section 9-7-9, "Side Yard Bulk Plane," B.R.C. 1981, is amended to read as follows:

9-7-9. Side Yard Bulk Plane.

(a) Purpose: Buildings with tall side walls may impact privacy, views or visual access to the sky on neighboring properties. The purpose of this side yard bulk plane standard is to ensure that buildings step down towards neighboring properties in order to enhance privacy, preserve some views and visual access to the sky for lots or parcels that are adjacent to new development.

(b) Scope: All construction related to principal and accessory buildings shall comply with the bulk plane requirements of this section. This section applies to all construction related to buildings, including new construction, building addition or modification of existing buildings as follows:

(1) All residential principal and accessory buildings in the RR-1, RR-2, RE and RL-1 zoning districts; and

(2) All principal and accessory buildings that are used as detached dwelling units in the RMX-1 zoning district.

Section 39. Section 9-7-10, "Schedule of Intensity Standards," B.R.C. 1981, is amended to read as follows:

9-7-10. Side Yard Wall Articulation.

(a) Purpose: Buildings with tall side walls may impact privacy, views or visual access to the sky on neighboring properties. The purpose of the side yard wall articulation standard is to reduce the perceived mass of a building by dividing it into smaller components, or to step down the wall height in order to enhance privacy, preserve views and visual access to the sky for lots or parcels that are adjacent to new development.

- (b) Scope: All construction related to principal and accessory buildings shall comply with the side yard wall length articulation requirements of this section. This section applies to all construction related to buildings, including new construction, expansion or modification of existing buildings as follows:
 - (1) All residential buildings in the RR-1, RR-2, RE and RL-1 zoning districts, including lots located in planned developments, planned residential developments and planned unit developments.
 - (2) All buildings that are used detached dwelling units in the RMX-1 zoning district, including lots located in planned developments, planned residential developments and planned unit developments.

Section 40. Section 9-7-11, “Maximum Building Coverage,” B.R.C. 1981, is amended to read as follows:

9-7-11. Maximum Building Coverage.

- (a) Purpose: The purposes of the building coverage standards are to establish the maximum percentage of lot surface that may be covered by principal and accessory buildings to preserve open space on the lot, and to preserve some views and visual access to the sky and enhance privacy for residences that are adjacent to new development.
- (b) Scope: All construction related to principal and accessory buildings shall comply with the building coverage requirements of this section. This section applies to all construction related to residential buildings, including new construction, building additions or modification of existing buildings as follows:
 - (1) All residential and principal and accessory buildings in the RR-1, RR-2, RE and RL-1 zoning districts, including lots located in planned developments, planned residential developments and planned unit developments.
 - (2) All principal and accessory buildings that are used as detached dwelling units in the RMX-1 zoning district, including lots located in planned developments, planned residential developments and planned unit developments.
 - (3) In the RL-2 zoning district, the building coverage requirements shall apply to lots that are eight thousand square feet or larger that are not within the boundaries of a planned development, planned residential development, planned unit development or an approved site review.
 - (4) In the RL-2 zoning district, the requirements shall apply to all lots and parcels that are within the boundaries of a planned development, planned residential development and planned unit development that are shown on Appendix H of this title.

Section 41. Section 9-8-1, "Schedule of Intensity Standards," B.R.C. 1981, is amended

to read as follows:

9-8-1. - Schedule of Intensity Standards.

The purpose of this chapter is to indicate the requirements for the allowed intensity of all types of development, including maximum density for residential developments based on allowed number of units.¹⁴ All primary and accessory structures are subject to the standards set forth in Table 8-1 of this section except that developments within an area designated in Appendix L, "Form-Based Code Areas," and subject to the standards or Chapter 9-14, "Form-Based Code," are exempt from Table 8-1 and Sections 9-8-1 through 9-8-4, B.R.C. 1981. Developments within an area designated in Appendix L, "Form-Based Code Areas," and subject to the standards or Chapter 9-14, "Form-Based Code," are subject to the standards of Sections 9-8-5, "Occupancy of Dwelling Units," 9-8-6, "Density Equivalencies for Group Residences and Hostels," and 9-8-7, "Density of Efficiency Living Units," B.R.C. 1981. No person shall use any land within the city authorized by Chapter 9-6, "Use Standards," B.R.C. 1981, except according to the following requirements unless modified through a use review under Section 9-2-15, "Use Review," B.R.C. 1981, or a site review under Section 9-2-14, "Site Review," B.R.C. 1981, or granted a variance under Section 9-2-3, "Variances and Interpretations," B.R.C. 1981, or approved through a form-based code review under Section 9-2-16, "Form-Based Code Review," B.R.C. 1981.

Section 42. Section 9-8-2, "Floor Area Ratio Requirements," B.R.C. 1981, is amended to read as follows:

- 9-8-2. Floor Area Ratio Requirements.**
- (a) Purpose: The purpose of the floor area ratio requirements is to limit the impacts of the use that result from increased building size.
 - (b) Maximum Floor Area Ratio: The maximum floor area ratio on a lot or parcel shall be the greatest of the following:
 - (1) The floor area set forth in this section;
 - (2) The floor area approved prior to June 3, 1997, as part of a valid existing or unexpired planned development (PD), planned residential development (PRD), planned unit development (PUD), or a site review; or
 - (3) The floor area on the lot or parcel on June 3, 1997.
 - (c) Calculating Floor Area Ratios and Floor Area Ratio Additions: The floor area ratio shall be calculated based on all buildings on a lot according to the definitions in Chapter 9-16, B.R.C., 1981, "Floor Area," "Floor Area Ratio," "Uninhabitable Space," and "Basement". In addition to the floor area ratio limitations set forth in Table 8-1, Intensity Standards, B.R.C. 1981, floor area ratio additions may be added above the base floor area ratio and certain

¹⁴ Occupancy is no longer regulated in the land use code.

floor areas may be excluded from the floor area calculations as set forth in Table 8-2 of this section.

TABLE 8-2: FLOOR AREA RATIO ADDITIONS

	<i>DT-1</i>	<i>DT-2</i>	<i>DT-3</i>	<i>DT-4</i>	<i>DT-5</i>	<i>MU-1</i> ^(c)	<i>MU-2</i> ^(c)	<i>MU-3</i>	<i>BT-2</i>	<i>B</i>
Base FAR	1.0	1.5	1.7	1.7	1.7	0.6	0.6	1.0	0.5	0.
Maximum total FAR additions (FAR) ^(d)	1.0	0.5	1.0	0.5	1.0	0.07	-	-	-	0.
FAR additional components:										
1) Residential floor area (FAR)	0.5	0.5	0.5	0.5	1.0 ^(b)	-	-	-	-	-
2) Residential floor area if at least 35% of units are permanently affordable and at least 50% of total floor area is residential (FAR)	-	-	-	-	-	0.07	-	-	-	-
3) Residential floor area for a project NOT located in a general improvement district that provides off-street parking	-	-	-	-	-	-	-	-	-	0.

4) Floor area used as off-street parking, bicycle parking, and vehicular circulation that is above grade and provided entirely within the structure	0.5	0.5	0.5	0	0.5	Not counted	Not counted	Not counted	-	N
5) Below grade area used for occupancy	Not counted	Not counted	Not counted	Not counted	Not counted	-	-	-	Not counted	N
6) Nonresidential floor area (FAR) (see Paragraph 9-8-2(d)(3) and Section 4-20-62, Table 4)	-	-	-	-	1.0 ^(b)	-	-	-	-	-
Maximum allowable FAR (sum of base plus all available additions)	2.0 + row 5	2.0 + row 5	2.7 + row 5	2.2 + row 5	2.7 + row 5	0.67. + row 4 above	+ row 4 above	1.0 + row 4 above	0.5 + row 5 above	1.0 + row 4 above

Footnotes:

- (a) FAR up to 1.85 if property is located in a general improvement district providing off-street parking.
- (b) The maximum additional FAR component is 1.0. FAR additional components may be combined, but shall not exceed the 1.0 maximum total floor are ratio limit.
- (c) See Subparagraph 9-2-14(h)(6)(B), B.R.C. 1981.

- (d) For properties located in an area designated in Appendix L, "Form-Based Code Areas," and subject to the standards of Chapter 9-14, "Form-Based Code," the floor area and floor area ratio (FAR) requirements do not apply. Refer to Chapter 9-14, "Form-Based Code," for specific form, bulk, intensity, and outdoor space requirements.
- (e) See Subsection 9-6-3(a)(2), B.R.C. 1981.
- (f) Floor area ratio (FAR) in the RH-2 zoning district may be increased up to a maximum FAR of 1.07 in a site review.
- (g) FAR in the BT-1 zoning district may be increased up to a maximum FAR of 1.4 in a site review.
- (h) FAR in the BC zoning districts may be increased up to a maximum FAR of 2.0 provided the lot or parcel is located within an area identified in Appendix N, "Business Community (BC) Areas Subject to Special Use Restrictions."
- (-) Not applicable.

(d) District-Specific Standards:

- (1) Maximum Floor Area in the RR-1, RR-2, RE, RL-1, RL-2, and RMX-1 Zoning Districts:
 - (A) Purpose: The purpose of a floor area ratio standard is to address the proportionality of building size to lot size and allow variation in building form within the established building envelope.
 - (B) Scope: All construction related to principal and accessory buildings shall comply with the floor area ratio requirements of this section. This section applies to all construction related to residential buildings, including new construction, building additions, or modification of existing buildings as follows:
 - (i) All principal and accessory buildings in the RR-1, RR-2, RE, and RL-1 zoning districts, including lots located in planned developments, planned residential developments, and planned unit developments.
 - (ii) All principal and accessory buildings in the RMX-1 zoning district, including lots located in planned developments, planned residential developments, and planned unit developments.
 - (iii) In the RL-2 zoning district, the floor area ratio requirements shall apply to lots that are 8,000 square feet or larger, used for detached dwelling units that are not within the boundaries of a planned development, planned residential development, planned unit development, or an approved site review.
 - (iv) In the RL-2 zoning district, the floor area ratio requirements shall apply to all lots and parcels used for detached dwelling units that are within the boundaries of a planned development, planned residential development, and planned unit development that are shown on Appendix H to this title.

- (v) For projects subject to site review in Section 9-2-14, "Site Review," B.R.C. 1981, the floor area shall be calculated based upon each lot or parcel.

Section 43. Section 9-8-5, "Occupancy of Dwelling Units," B.R.C. 1981, is amended to read as follows:

9-8-5. Occupancy of Dwelling Units.

- (a) General Occupancy Restrictions: No person shall occupy a dwelling unit in violation of the provisions of Chapter 10-2, "Property Maintenance Code," B.R.C.1981, or intentionally or negligently misrepresent the permitted occupancy of a dwelling unit under Title 10 of this code. A violation of this section shall be considered a violation of Title 10.¹⁵
- (b) Prior Approvals: Any requirement under a city approval granted under this title that restricts occupancy based on familiar relationship, such as number of unrelated persons, or restricts occupancy or beyond the occupancy permitted by Chapter 10-2, "Property Maintenance Code," B.R.C. 1981, is void and shall not be enforced. ¹⁶ Notwithstanding the foregoing, this subsection does not apply to any residential occupancy limit based on the standards in Chapter 9-13, "Inclusionary Housing," B.R.C. 1981, or based on any local, state, federal or political subdivision affordable housing program guidelines.

¹⁷

Section 44. Section 9-8-6, "Occupancy Equivalencies for Group Residences," B.R.C. 1981, is amended to read as follows:

9-8-6. Density Equivalencies for Group Residences and Hostels.

The permitted density for the following uses shall be calculated as indicated below. The density equivalencies shall not be used to convert existing uses referenced in this section to dwelling units except as set forth in subsection (g). The number of allowed dwelling units shall be determined by using Section 9-8-1, "Schedule of Intensity Standards," B.R.C. 1981:

- (a) Boarding or Rooming House, Fraternity, Sorority, or Dormitory: In boarding or rooming houses, fraternities, sororities, or dormitories, three sleeping rooms constitute one dwelling unit.

¹⁵ The existing section on occupancy in the land use code is proposed to be updated to refer specifically to Chapter 10-2, "Property Maintenance Code" which has direct links to the IPMC.

¹⁶ This "Prior Approval" section makes it clear that if there are any prior approvals from the city that may have restricted occupancy based on familial relationships that these provisions are not null and void in light of state laws that note that local governments may not enforce occupancy laws based on the numbers of unrelated persons.

¹⁷ All of these sections would not be consistent with the state law and thus, are proposed for removal.

- (b) Hostel: In hostels, three sleeping rooms constitute one dwelling unit, but the planning board may increase the density of a hostel to four sleeping rooms per dwelling unit through a use review as provided in Section 9-2-15, "Use Review," B.R.C. 1981.
- (c) Custodial Care and Residential Care Facilities: In custodial care and residential care facilities, eight sleeping rooms or accommodations without kitchen facilities constitute one dwelling unit in custodial care and residential care facilities. If units are provided in a household living configuration, one detached dwelling unit constitutes one dwelling unit and one attached dwelling unit constitutes one dwelling unit.
- (d) Group Home Facilities: In group home facilities, eight sleeping rooms or accommodations without kitchen facilities constitute one dwelling unit. If units are provided in a household living configuration, one detached dwelling unit constitutes one dwelling unit and one attached dwelling unit constitutes one dwelling unit.¹⁸
- (e) Congregate Care Facility: In congregate care facilities, five sleeping rooms or accommodations without kitchen facilities constitute one dwelling unit, three attached dwelling units constitute one dwelling unit, and one detached dwelling unit constitutes one dwelling unit.
 - (1) A congregate care facility that is built or the use is established after October 31, 2013, and uses the dwelling unit equivalency of three attached dwelling units to constitute one dwelling unit shall meet the following additional standards:
 - (A) The facility shall include a minimum of ten attached congregate care dwelling units.
 - (B) The average dwelling unit floor area for attached congregate care facilities shall not exceed one thousand square feet per unit, and no single dwelling unit shall exceed one thousand two hundred square feet. The average dwelling unit floor area shall include the floor area within the attached dwelling unit and associated storage areas and shall exclude common areas and garages.
 - (2) A congregate care facility built or the use is established prior to October 31, 2013, may use the definition of congregate care to define the use classification and the average floor area per dwelling units for attached and detached dwelling units in effect when the congregate care facility was built or the use was established.
- (f) Bed and Breakfast: Three guest rooms in a bed and breakfast constitute one dwelling unit. In any bed and breakfast, up to twelve guest rooms are permitted, provided the required parking can be accommodated on site and the provisions of Subsection 9-6-5(a), B.R.C. 1981, are met.

¹⁸ These uses in detached dwelling units would be regulated the same as any detached dwelling unit per the IPMC and to comply with the Fair Housing Act. Attached housing projects would have to meet the density equivalencies of this section, which in some scenarios already allows and incentivizes additional units. The new language makes it clear that if traditional dwelling units are used in these projects, the occupancy limits would have to meet the IPMC and International Building Code (IBC).

- (g) Conversion of Rooming Units to Dwelling Units: Pursuant to approval of a use review under Sections 9-2-15, "Use Review," B.R.C. 1981, for nonconforming uses, rooming units in RM and RH zoning districts that were legally established under prior zoning ordinances and have continued as a legal nonconforming use may be converted to dwelling units at a ratio of four rooming units to one dwelling unit.

Section 45. Section 9-8-7, "Density and Occupancy of Efficiency Living Units," B.R.C.

1981, is amended to read as follows:

9-8-7. Density of Efficiency Living Units.

- (a) Dwelling Unit Equivalents for Efficiency Living Units: For purposes of the density limits of Section 9-8-1, "Schedule of Intensity Standards," B.R.C. 1981, two efficiency living units constitute one dwelling unit.
- (b) Dwelling Unit Equivalents for Moderate Income Housing: For purposes of counting dwelling units under the provisions of Ordinance No. 4638, as amended, "Moderate Income Housing," one efficiency living unit equals one dwelling unit.

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Section 46. Section 9-9-5, "Site Access Control," B.R.C. 1981, is amended to read as

follows:

9-9-5. Site Access Control.

- (a) Access Control: Vehicular access to property from the public right-of-way shall be controlled in such a manner as to protect the traffic-carrying capacity and safety of the street upon which the property abuts and access is taken, ensuring that the public use and purpose of public rights of way is unimpaired as well as to protect the value of the public infrastructure and adjacent property. The requirements of this section apply to all land uses, including detached dwelling units, as follows:
 - (1) For all uses, except for detached dwelling units, the standards shall be met prior to a final inspection for any building permit for new development; redevelopment exceeding twenty-five percent of the value of the existing structure; or the addition of a dwelling unit. For purposes of this paragraph (1), the applicant shall demonstrate the value of the existing structure by submitting, at the discretion of the applicant, either the actual value assessed by the Boulder

¹⁹ This is already specified clearly in the IPMC.

County Assessor's Office or the fair market value determined by a real estate appraiser licensed in Colorado.

(2) For detached dwelling units, the standards of this section shall be met prior to a final inspection for any building permit for new development; the demolition of a principal structure; or the conversion of an attached garage or carport to a use other than use as a parking space.

(3) Notwithstanding the above, development on a property that has three or fewer dwelling units must meet the driveway width standards of this section if the development has to comply with the landscape standards of Subsection 9-9-12(b), "Landscaping and Screening Standards," B.R.C. 1981. Compliance with the driveway width standards shall be met prior to final inspection of a building permit.

(b) Access for Properties Subject to Annexation: Each parcel of land under a single ownership at the time of its annexation will be reviewed in terms of access as one parcel (regardless of subsequent sales of a portion) unless the property is subdivided at the time of its annexation.

(c) Standards and Criteria for Site Accesses and Curb Cuts: Any access or curb cut to public rights of way shall be designed in accordance with the City of Boulder Design and Construction Standards and the following standards and criteria:

(1) Number of Access Points Permitted: One access point or curb cut per property will be permitted, unless a site plan or traffic study, approved by the city manager, demonstrates that additional access points and curb cuts are required to adequately address accessibility, circulation, and driveway volumes, and only where additional accesses and curb cuts would not impair any public use of any public right-of-way, or create safety or operational problems, or be detrimental to traffic flow on adjacent public streets.

(2) Access Restrictions: On arterial and collector streets, or if necessary for the safe and efficient movement of traffic, all accesses shall be designed and constructed with physical improvements and appropriate traffic control measures to assist or restrict turning movements, including, without limitation, acceleration or deceleration lanes, access islands, street medians, and signage, as may be required of the development if the city manager finds that they are necessary to preserve the safety or the traffic-carrying capacity of the existing street. The city manager shall determine the length and degree of the required access restriction measures for the property.

(3) Residential Access to Arterial and Collector Streets Restricted: No residential structures shall have direct access onto an arterial. However, if no alternative street access is possible, an access may be permitted subject to the incorporation of any design standards determined to be necessary by the city manager to preserve the safety and the traffic-carrying capacity of the arterial or collector.

(4) Access From Lowest Category Street Required: A property that has frontage on more than one street, alley or public access shall locate its access or curb cut on the lowest category

street, alley or public access frontage. If more than one access point or curb cut is necessary, an additional access or curb cut will be permitted only where the proposed access or curb cut satisfies the requirements in this section.

(5) **Property Right to Access:** If a property cannot be served by any access point or curb cut that satisfies this section, the city manager will designate the access point or curb cut for the subject property based on optimal traffic safety.

(6) **Multiple Access Points for Detached Dwelling Units:** The city manager will permit multiple access points on the same street for a single lot containing a detached dwelling unit upon finding that there is at least one hundred linear feet of lot frontage adjacent to the front yard on such street, the area has a limited amount of pedestrian activity because of the low density character, and there is enough on-street parking within three hundred feet of the property to meet the off-street parking needs of such area. The total cumulative width of multiple curb cuts shall not exceed the maximum permitted width of a single curb cut. The minimum spacing between multiple curb cuts on the same property shall not be less than sixty-five feet.

(7) **Shared Driveways for Residential Structures:** A lot with a detached dwelling unit that does not have frontage on the street from which access is taken may be served by a shared driveway that meets all of the standards and criteria for shared driveways set forth in the City of Boulder Design and Construction Standards.

Section 47. Section 9-9-11(i), “Useable Open Space,” B.R.C. 1981, is amended to read as follows:

9-9-11. Useable Open Space.

...

(i) **Prohibitions:** Portions of a lot on which a structure or unenclosed use is located shall not be counted as useable open space unless allowed in subsection (d), (e), (f) or (h) of this section. Portions of a lot that are unenclosed include those areas that are designed such that they cannot be enclosed and are generally open to the sky above, except for a balcony or deck. The following are specific examples of areas that may not be counted as useable open space:

(1) Paved areas intended for pedestrian use, which are located adjacent to alleys or driveways and are not physically separated from the alley or driveway by a barrier such as a fence, wall, bollard or elevated planter or curb which prevent use of the area by any vehicle;

(2) A recessed window or doorway of less than twenty-four square feet in ground area and less than three feet in any horizontal dimension;

- (3) Any landscaped area less than two feet in width unless located within an elevated planter that is less than eighteen inches in height;
- (4) Public or private rights of way for highways, streets or alleys;
- (5) Roofs that do not meet the provisions of paragraph (f)(1) of this section;
- (6) Parking areas and garages that do not meet the provisions of paragraph (f)(3) of this section;
- (7) Land area with a slope in excess of fifteen percent unless approved as part of a site review;
- (8) Balconies, decks and patio areas attached to a detached dwelling unit which are:
 - (A) Attached at the same level or below the first floor above grade and where the deck floor exceeds six feet above grade; or
 - (B) Constructed over an enclosed building.

Section 48. Section 9-9-12(ii), "Landscaping and Screening Standards," B.R.C. 1981, is amended to read as follows:

9-9-12. Landscaping and Screening Standards.

...

- (ii) Maintenance and Replacement: The property owner shall maintain all required landscaping and provide for replacement of plant materials that have died or have otherwise been damaged or removed, and maintenance of all non-live landscaping materials, including, but not limited to, fencing, paving, irrigation systems, and retaining walls from the issuance of a certificate of occupancy or certificate of completion.
- (3) Open Space: Required useable open space shall meet the provisions of this section and Sections 9-7-1, "Schedule of Form and Bulk Standards," and 9-9-11, "Useable Open Space," B.R.C. 1981.
- (4) Pedestrian Access: In all zones except A, P, RR, RE, RL, and RM, paved pedestrian walkways, a minimum of three feet in width, shall be provided as follows:
 - (A) Between at least one building entrance and the sidewalk adjacent to the street;
 - (B) Between the parking lot and the entrance to any buildings larger than 10,000 square feet in size.
- (5) Screening of Trash Collection and Recycling Areas, Service Areas, and Loading Areas: In nonresidential and multi-unit residential developments, trash collection and recycling areas, service areas, and loading areas shall be screened on all sides so that no portion of such areas are visible from public streets and alleys and adjacent properties. Required screening may include

new and existing plantings, walls, fences, screen panels, doors, topographic changes, buildings, horizontal separation, or any combination thereof.

Section 49. Section 9-9-13, "Streetscape Design Standards," B.R.C. 1981, is amended to read as follows:

9-9-13. Streetscape Design Standards.

Streetscape improvements shall be designed in accordance with the following standards:

- (a) Scope: The standards set forth in this section apply to all land uses, including detached dwelling units.
- (b) Street Trees: A planting strip consisting of deciduous trees shall be planted along the full length of all public and private streets in all zoning districts. When possible, trees shall be planted in the public right-of-way. Large deciduous trees and detached sidewalks are required wherever possible and shall be planted at a minimum, in accordance with subsection (d) of this section.
- (c) Alley Trees: Except for existing lots with a detached dwelling unit, along all alleys adjacent to or within a residential zone, trees shall be planted at an overall average of one tree per forty linear feet within ten feet of the pavement or edge of alley.

Section 50. Section 9-10-3(b)(1), "Changes to Nonstandard Buildings, Structures, and Lots and Nonconforming Uses," B.R.C. 1981, is amended to read as follows:

9-10-3. Changes to Nonstandard Buildings, Structures, and Lots and Nonconforming Uses.

...

(b) Nonstandard Lots or Parcels:

- (1) Development Requirements: Vacant lots in all residential districts except RR-1 and RR-2 which are smaller than the lot sizes indicated in Section 9-8-1, "Schedule of Intensity Standards," B.R.C. 1981, but larger than one-half of the required zoning district minimum lot size, may be developed with a detached dwelling unit if the building meets the setback requirements of Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981. In RR-1 and RR-2 districts, lots which are smaller than the minimum lot size but larger than one-fourth of the minimum lot size may be developed if the building meets the setback requirements. In all other

zoning districts, vacant lots which are below one-half of the required minimum lot size for the zoning district shall not be eligible for construction of principal buildings.

Section 51. Section 9-13-3, “General Inclusionary Housing Requirements,” B.R.C.

1981, is amended to read as follows:

9-13-3. General Inclusionary Housing Requirements.

(a) Inclusionary Housing Requirements.

(1) A development is required to include at least twenty-five percent of the total number of dwelling units as permanently affordable units.

(2) For required for-sale permanently affordable units, townhouses and detached dwelling units shall have prices set to be affordable to one hundred twenty percent of the AMI. All other types of permanently affordable for-sale units shall have prices set to be affordable to one hundred percent of the AMI.

(3) Required rental permanently affordable units shall include eighty percent of the required permanently affordable units as low/moderate income dwelling units and twenty percent of the required permanently affordable units shall have rents set to be affordable to households earning no greater than fifty percent of the AMI.

(4) As an alternative to providing permanently affordable units on-site developments may satisfy the inclusionary housing requirement through any combination of the alternative means of compliance set forth in Section 9-13-10, "Options for Satisfaction of Inclusionary Housing Requirement," B.R.C. 1981.

(5) The city manager is authorized to use rule-making authority to annually adjust the percentages in Subsection 9-13-3(a) to incentivize on-site affordable units.

(6) Rounding Rule: In determining the number of permanently affordable units required on or off-site, any inclusionary housing requirement resulting in a fractional value with a decimal point that is 0.5 or greater will be rounded up to the next whole number. Any remaining fraction may be met through other options as allowed in Section 9-13-10, "Options for Satisfaction of Inclusionary Housing Requirement," B.R.C. 1981.

Section 52. Section 9-13-7, “Relationship of Permanently Affordable Units to Market

Units,” B.R.C. 1981, is amended to read as follows:

9-13-7. Relationship of Permanently Affordable Units to Market Units.

- (a) Purpose: Permanently affordable units shall be comparable in quality, design and general appearance to the market rate units creating the inclusionary housing requirement.
- (b) Detached Dwelling Units: When a development contains detached dwelling units, a proportional number of the required permanently affordable units shall also be detached dwelling units or attached townhouses.
- (c) Mixed Dwelling Unit Types: In developments with a mixture of dwelling unit types, including, without limitation, detached dwelling units, townhouses, duplexes, triplexes, four-plexes, eight-plexes, and stacked flats, the required permanently affordable units shall be comprised of the different dwelling unit types in the same proportion as the dwelling units that are not permanently affordable within the development except as allowed in Subsection (b) above.
- (d) Number of Bedrooms and Bathrooms: Permanently affordable units shall have the same proportion of zero bedroom/studio, one-, two-, three- and four-bedroom dwelling units as the market rate units of the development. The city manager will determine the minimum numbers of bathrooms required for permanently affordable units with these numbers of bedrooms.
- (e) Ownership Type: Permanently affordable units shall be for-sale in the same proportion as the market rate units that are for-sale within the development that generated the requirement; for example, if fifty percent of the units in the development are for sale units, then at least fifty percent of the permanently affordable units must be for-sale units except as otherwise approved by the city manager. Rental developments may provide either rental or for-sale permanently affordable units.

Section 53. Section 9-15-4, “Criminal Sanctions,” B.R.C. 1981, is amended to read as follows:

9-15-4. Criminal Sanctions.

- (a) The city attorney, acting on behalf of the people of the city, may prosecute any violation of this title or any approval granted under this title in municipal court in the same manner that other municipal offenses are prosecuted.
- (b) The penalty for violation of any provision of this title is a fine of not more than \$2,650.00 per violation. The limitation of this fine shall be adjusted for inflation on January 1, 2025, and on January 1 of each year thereafter. As used in this subsection, “inflation” means the Colorado consumer price index or a similar index that is tied to the annual rate of inflation in the state or Denver-Boulder metropolitan area.²⁰ In addition, upon conviction

²⁰ This is an update to reflect current penalties and provide consistency with recent code changes.

of any person for violation of this title, the court may issue a cease and desist order and any other orders reasonably calculated to remedy the violation. Violation of any order of the court issued under this section is a violation of this section and is punishable by a fine of not more than \$4,000.00 per violation, or incarceration for not more than ninety days in jail or both such fine and incarceration.

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Section 54. Section 9-15-9, “Multiple Dwelling Units and Occupancy- Specific

Defenses,” B.R.C. 1981, is amended to read as follows:

9-15-9. Multiple Dwelling Units - Specific Defenses.

- (a) Specific Defenses to Alleged Violations Related to Multiple Dwelling Units: If a charge of violation of any provision of chapter 9-5, "Modular Zone System," 9-6, "Use Standards," 9-7, "Form and Bulk Standards," 9-8, "Intensity Standards," or 9-9, "Development Standards," B.R.C. 1981, is premised solely upon the multiple dwelling units provisions of subsection 9-16-1(c), B.R.C. 1981, it is a specific defense to such charge that, on a continuing basis, the residents of the dwelling unit share utilities and keys to all entrances to the property and that they function as a single housekeeping unit. For purposes of this section, to function as a single housekeeping unit means to share major functions associated with residential occupancy and to share a single common kitchen as the primary kitchen.

Section 55. Section 9-14-3, “Design Goals for the Form-Based Code Areas,” B.R.C.

1981, is amended to read as follows:

9-14-3. DESIGN GOALS FOR THE FORM-BASED CODE AREAS

The requirements of this chapter are intended to accomplish the following objectives:

- (a) **Character, Context, and Scale.** Preserve or enhance the character, context, and scale planned for the area while supporting a more sustainable future by accommodating future residents, reducing dependence on single occupant vehicles, increasing energy efficiency, and promoting safe transportation options for pedestrians and bicycles.
- (b) **Human-Scaled Building Design.** Design to a human scale and create a safe and vibrant pedestrian experience.
- (c) **Building Design Quality and Aesthetics.** Design high-quality buildings that are compatible with the character of the area or the character established by adopted plans for

²¹ As occupancy is no longer a Title 9 violation, this language is being moved from Title 9 and to Title 10 below.

the area through simple, proportional, and varied design, high quality and natural building materials that create a sense of permanence, and building detailing, materials and proportions.

- (d) **A Variety of Housing Types.** Produce a variety of housing types, such as multi-unit dwelling units, townhouses, and detached dwelling units, as well as a variety of lot sizes, number of bedrooms per unit, and sizes of units within the form-based code area.
- (e) **Adaptable Buildings.** Build adaptable buildings with flexible designs that allow changes in uses over time.
- (f) **Provision of Outdoor Space.** Provide outdoor space that is accessible and close to buildings. Active and passive recreation areas will be designed to meet the needs of anticipated residents, occupants, employees, and visitors to the property.
- (g) **Support of Multi-Modal Mobility.** Provide safe and convenient multi-modal connections and promote alternatives to the single occupant vehicle. Connections shall be accessible to the public within the project and between the project and the existing and proposed transportation systems, including, without limitation, streets, bikeways, paseos, and multi-use paths.

Section 56. Section 9-14-4, “Organization and Scope,” B.R.C. 1981, is amended to read

as follows:

9-14-4. ORGANIZATION AND SCOPE

This section describes how this chapter is organized to provide the user with some guidance using this chapter and it addresses the scope of its application.

- (a) **Organization.** This chapter is organized into the following sections:
 - (1) **Sections 9-14-1 through 9-14-8: General Provisions.** The general provisions include a purpose statement for the form-based code, a description of where the requirements for the form-based code apply, a description of this chapter’s organization and scope, the regulating plans for each form-based code area, and definitions that apply to the terms of this chapter.
 - (2) **Sections 9-14-9 through 9-14-13: Site Design.** These sections establish general site design and minimum outdoor space requirements, applicable to all form-based code areas, unless otherwise specified. Outdoor space types are established to guide the design of common outdoor spaces.
 - (3) **Sections 9-14-14- through 9-14-26: Building Types.** These sections establish a variety of building types and building form, design, location, and use requirements applicable to each building type. The regulating plans determine which building type may be used on a particular site.

- (4) **Sections 9-14-27- through 9-14-33: Building Design.** These sections establish general building design requirements that are applicable to all of the building types, unless otherwise stated.
- (b) **Scope.** The requirements of this chapter supplement those imposed on the same lands by underlying zoning provisions and generally applicable development standards of this title and other ordinances of the city. If there is a conflict between the requirements of this chapter and Title 9, "Land Use Code," B.R.C. 1981, the standards of this section control. The following describes how specific requirements of this title relate to requirements of this chapter:
- (1) **Chapter 9-6: Use Standards.** Chapter 9-6, "Use Standards," B.R.C. 1981, regulates uses which are permitted, conditionally permitted, prohibited, or which may be permitted through use review. Additional use standards may be established for the different building types in sections M-1-15 through M-1-19 of this chapter.
 - (2) **Chapter 9-7: Form and Bulk Standards.** This chapter supersedes the standards in Chapter 9-7, "Form and Bulk Standards," B.R.C. 1981, with the exception of Sections 9-7-3, "Setback Encroachments," 9-7-5, "Building Heights," and 9-7-7, "Building Heights, Appurtenances," B.R.C. 1981. Building height shall be measured in accordance with the requirements of Section 9-7-5, B.R.C. 1981.
 - (3) **Chapter 9-8: Intensity Standards.** This chapter supersedes the standards in Chapter 9-8, "Intensity Standards," B.R.C. 1981, with the exception of Sections 9-8-5, "Occupancy of Dwelling Units," 9-8-6, "Density Equivalencies for Group Residences and Hostels," and 9-8-7, "Density of Efficiency Living Units," B.R.C. 1981.
 - (4) **Chapter 9-9: Development Standards.** Chapter 9-9, "Development Standards," B.R.C. 1981, applies to developments that are regulated by this chapter as follows:
 - (5) **Applicable Sections.** The following sections of Chapter 9-9, "Development Standards," B.R.C. 1981, are applicable:
 - (A) **9-9-1.** Intent.
 - (B) **9-9-2.** General Provisions.
 - (C) **9-9-4.** Public Improvements.
 - (D) **9-9-5.** Site Access Control, in addition to the access location requirements in Section M-1-11(a) "Driveways," B.R.C. 1981.
 - (E) **9-9-6.** Parking Standards.
 - (F) **9-9-7.** Sight Triangles.
 - (G) **9-9-8.** Reservations, Dedication, and Improvement of Right-of-way.
 - (H) **9-9-9.** Loading.

- (I) **9-9-10.** Easements.
 - (J) **9-9-12.** Landscape and Screening Standards.
 - (K) **9-9-13.** Streetscape Design Standards, in addition to the requirements established in M-1-10, Streetscape Design Requirements.
 - (L) **9-9-14.** Parking Lot Landscape Standards.
 - (M) **9-9-15.** Fences and Walls.
 - (N) **9-9-16.** Lighting, Outdoor.
 - (O) **9-9-17.** Solar Access.
 - (P) **9-9-18.** Trash Storage and Recycling Areas.
 - (Q) **9-9-19.** Swimming Pools, Spas, and Hot Tubs.
 - (R) **9-9-20.** Addressing.
 - (S) **9-9-21.** Signs.
 - (T) **9-9-22.** Trip Generation Requirements for the MU-4, RH-6, and RH-7 Zoning Districts.
- (6) **Superseded Sections.** The following sections of Chapter 9-9, "Development Standards," B.R.C. 1981, are superseded by this chapter:
- (A) 9-9-3, Building Design, is superseded by this chapter.
 - (B) 9-9-11, Useable Open Space, is superseded by the requirements of this chapter.
- (c) **Other Sections and Ordinances.** The Boulder Revised Code and other ordinances of the city are applicable unless expressly waived or modified in this chapter. If there is a conflict between the requirements of this chapter and other portions of the Boulder Revised Code other than Title 9, "Land Use Code," B.R.C. 1981, the most restrictive standards shall control.

Section 57. Section 9-16-1, "General Definitions," B.R.C. 1981, is amended to read as follows:

9-16-1. General Definitions.

Breezeway means a roofed at grade open passage connecting a detached dwelling unit to an accessory building. A breezeway is not a space enclosed by walls.

Building coverage means the maximum horizontal area within the outer perimeter of the building walls, dividers, or columns at ground level or above, whichever is the greater area, including, without limitation, breezeways, courts, and exterior stairways, but excluding:

- (1) Uncovered decks, stoops, patios, terraces, and stairways, all less than thirty inches high;
- (2) The outer four feet of completely open, uncovered, cantilevered balconies that have a minimum of eight feet vertical clearance below;
- (3) Up to three hundred square feet of a detached dwelling unit front porch that is adjacent to a street;
- (4) Up to one hundred fifty square feet of additional porch area not located in the front yard for a detached dwelling unit;
- (5) One accessory building, no larger than eighty square feet in size and no taller than ten feet in height, associated with a detached dwelling unit; and
- (6) Up to thirty inches of a roof or a breezeway overhang.

Conveyance zone means those portions of the floodplain required for the passage or conveyance of the one hundred-year flood. The conveyance zone is delineated based on an equal encroachment methodology (measured in volume of water), which is applied to the floodplain from the edges of the flood channel to a point where the one-hundred-year flood profile will be raised no more than six inches, after considering a reasonable expectation of blockage at bridges and other obstructions by flood-borne debris. The city may, in its discretion, delineate the conveyance zone on city owned land or right-of-way based on unequal encroachment to minimize delineation on other properties. The conveyance zone is equivalent to a floodway delineation based on a six-inch rise. (Floodplain)

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Courtyard means any open, unclimatized space, without a roof, bounded by building walls for at least seventy-five percent of its perimeter.

Expansion of nonconforming use means any change or modification to a nonconforming use that constitutes:

- (1) An increase in the floor area, required parking, traffic generation, outdoor storage, or visual, noise, or air pollution;
- (2) Any change in the operational characteristics which may increase the impacts or create adverse impacts to the surrounding area including, without limitation, the hours of operation, noise, or the number of employees;
- (3) The addition of bedrooms to a dwelling unit, except a detached dwelling unit; or
- (4) The addition of one or more dwelling units.

²² This use is being removed because it is inconsistent with the state law on occupancy. The coop sections of the code are based on allowing occupancies above five unrelated persons with special approval. This conflicts with the state law and thus, all coop sections are proposed for removal from the Boulder Revised Code. Occupancy within units would just have to meet the current International Property Maintenance Code (IPMC) occupancy limits that are based on established life safety standards as noted in the state law.

Floor area for detached dwelling units means the total habitable square footage of all levels measured to the outside surface of the exterior framing, or to the outside surface of the exterior walls if there is no exterior framing or portions thereof, which includes stairways, storage, and mechanical rooms internal to the structure, but excluding garages. (Inclusionary Housing)

Housing type means the particular form which an attached or detached dwelling unit takes, including, without limitation, the following: detached dwelling units and mobile homes; attached dwelling units such as townhouses and row houses; duplexes, triplexes, and apartments.

Townhouse means an attached dwelling unit located or capable of being located on its own lot, and separated from adjoining dwelling units by a wall extending from the foundation through the roof which is structurally independent of the corresponding wall of the adjoining unit.

Transitional housing means a facility providing long-term housing in multi-unit dwelling units with or without common central cooking facilities, where participation in a program of supportive services is required as a condition of residency to assist tenants in working towards independence from financial, emotional, or medical conditions that limit their ability to obtain housing for themselves.

Section 58. Section 10-1-1, “Definitions,” B.R.C. 1981, is amended to read as follows:

10-1-1. Definitions.

²³*Rooming house* means an establishment where, for direct or indirect compensation, lodging, with or without kitchen facilities or meals, is offered for one month or more for three or more roomers living independently within rooming units

Rooming unit means a type of housing accommodation that consists of a room or group of rooms for a roomer, arranged primarily for sleeping and study, and that may include a private bath but does not include a sink or any cooking device.

Section 59. Section 10-2-2, “Adoption of International Property Maintenance Code

With Modifications,” B.R.C. 1981, is amended to read as follows:

²³ This use is being removed because it is inconsistent with the state law on occupancy. The coop sections of the code are based on allowing occupancies above five unrelated persons with special approval. This conflicts with the state law and thus, all coop sections are proposed for removal from the Boulder Revised Code. Occupancy within units would just have to meet the current International Property Maintenance Code (IPMC) occupancy limits that are based on established life safety standards as noted in the state law.

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

- (a) The 2018 edition of the *International Property Maintenance Code* (IPMC) of the International Code Council is hereby adopted by reference as the City of Boulder Property Maintenance Code and has the same force and effect as though fully set forth in this chapter, except as specifically amended for local application by this chapter.
- (b) IPMC Appendix chapters A, "Boarding Standard," B, "Rental Housing Inspections," and C, "Energy Efficiency Requirement - Existing Residential Rental Structures Energy Conservation," are adopted.
- (c) For ease of reference, the following identifies all chapters, sections and appendices of the published and adopted IPMC and includes specific amendments for local application. Chapter, Section, Subsection, or Appendix numbers of provisions not amended appear, followed by the words, "No changes." The amended text of specifically amended provisions appears below. Chapter, Section, Subsection, or Appendix numbers of any provisions not adopted appear, followed by the word, "Deleted."

...

**SECTION 106
VIOLATIONS**

106.1 Violations.

- (a) General Provisions:
 - (1) No person shall erect, construct, enlarge, alter, extend, repair, move, remove, improve, convert, demolish, equip, use, occupy, or maintain any building or structure in the city, or cause or permit the same to be done, except in conformity with all of the provisions of this code and in conformity with the terms and conditions of approval issued under this code, or of any directive of the code official. No person shall violate a provision of this code, or fail to comply therewith or with any of the requirements thereof. No person shall fail to comply with any order issued by the code official under this code.
 - (2) In accordance with the provisions of Section 5-2-11, "Prosecution of Multiple Counts for Same Act," B.R.C. 1981, each day during which illegal construction, alteration, maintenance, occupancy, or use continues, constitutes a separate offense remediable through the enforcement provisions of this code.
 - (3) The owner, tenant, and occupant of a structure or land and the agents of each of them are jointly and severally liable for any violation of this code with respect to such structure or land.
 - (4) The remedies for any violation of any provision of this code or of any permit, certificate, or other approval issued under this code or other City of Boulder code, or of any directive of the code official, may be pursued singly or in combination.
 - (5) If any person fails or refuses to pay when due any charge imposed under this section, the code official may, in addition to taking other collection remedies, certify due and unpaid charges to the Boulder County Treasurer for collection as provided by Section 2-2-12, "City Manager May Certify Taxes, Charges, and Assessments to County Treasurer for Collection," B.R.C. 1981.
 - (6) If an order under Section 107 is not complied with, the code official may institute any appropriate proceeding at law or in equity to restrain, correct, or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or the order or direction made pursuant thereto. The code official may charge the cost of any action taken to correct a violation, plus up to fifteen percent of such cost for administration, to the property owner. If any property owner fails or refuses to pay when due any charge imposed under this section, the code official may, in addition to taking other collection remedies, certify due any unpaid charges, including interest, to the Boulder County Treasurer, to be levied against the person's property for collection by the county in the same manner as delinquent general

taxes upon such property are collected, under the procedures described by Section 2-2-12, "City Manager May Certify Taxes, Charges, and Assessments to County Treasurer for Collection," B.R.C. 1981.

(b) Administrative Procedures and Remedies:

(1) If the code official finds that a violation of any provision of this code or of any approval granted under this code exists, the manager, after notice and an opportunity for hearing under the procedures prescribed by Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, may take any one or more of the following actions to remedy the violation:

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

(i) For the first violation of the provision or approval, \$100;

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

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

(B) For a violation concerning the use of a residential building under a rental license, revoke such license;

(C) Require the filing of a declaration of use as provided in subsection (e); or

(D) Issue an order reasonably calculated to ensure compliance with the provisions of this code or any approval granted under this code.

(2) Prior to the hearing, the code official may issue an order that no person shall perform any work on any structure or land, except to correct any violation found by the code official to exist with respect to such structure or land.

(3) If notice is given to the code official at least forty-eight hours before the time and date set forth in the notice of hearing on any violation that the violation has been corrected, the code official will reinspect the structure or land. If the code official finds that the violation has been corrected, the manager may cancel the hearing.

(4) No person shall fail to comply with any action taken by the code official under this section.

(c) Criminal Penalties. Violations of this code are punishable as provided in Section 5-2-4, "General Penalties," B.R.C. 1981.

(1) Occupancy Limitation Violations: Notwithstanding the provision of subsection (c), Criminal Penalties, of this section, the following specific sentencing considerations shall apply to fines imposed for violations of Section 404, Occupancy Limitations, of this code:

(A) The court shall consider any evidence presented by the defendant that a potential fine would be confiscatory. A confiscatory fine is a fine that would deprive a normally capitalized owner of the ability to continue operating a rental housing business of the sort involved in the case before the court. No fine that is confiscatory shall be enforced by the court.

(B) In imposing a fine in any single case or in any consolidated cases, the court may weigh all factors normally and properly considered in connection with the imposition of fines, including the seriousness of the violation, the past record of the defendant, the economic circumstances of the defendant and all mitigating or aggravating factors relevant to the violation or to the defendant. In addition, in determining the amount of any fine, the court may consider:

(i) The imposition of a fine that would deprive the defendant of any illegal profit collected because of the occurrence of the over-occupancy violation or violations on the rental housing property;

(ii) The imposition of a reasonable penalty in addition to any level of fine that is attributable to illegally obtained profit; and

(iii) The imposition of such additional fine as is determined by the court to constitute a reasonable amount to be suspended in order to ensure compliance with any terms of probation imposed by the court.

(C) No fine imposed in a single case alleging multiple dates of violation, nor any fine in consolidated cases alleging multiple days of violation, shall exceed the maximum fine that might be imposed for fifteen separate violations unless the court finds special aggravating circumstances. Where special aggravating factors are at issue, the following procedures shall apply:

(i) The defendant shall be entitled to ten days' notice of any special aggravating factors upon which the prosecution intends to rely at the sentencing hearing or about which, based upon evidence previously presented, the court is concerned. If necessary in order to provide such notice, a defendant shall be entitled to a continuance of the sentencing hearing.

- (ii) A judicial finding of the existence of special aggravating factors shall not mandate that the court impose any particular level of fine but will, rather, provide the sentencing court with discretion to determine a fine based upon all the criteria set forth in this subsection.
- (iii) Special aggravating factors, for the purpose of this subsection, shall require a judicial finding of one or more of the following:
 - a. The occupancy violations at issue were flagrant and intentional on the part of the defendant;
 - b. The defendant, after learning of the over-occupancy condition, failed to attempt corrective action over a sustained period of time; or
 - c. A fine equivalent to the maximum fine permitted for fifteen separate violations would be inadequate to disgorge the defendant of illegal profits obtained as a consequence of the violations or would be inadequate to ensure that the violation is neither profitable nor revenue neutral for the offender.

(2) Specific Defenses to Alleged Violations:

(A) Specific Defenses to Alleged Violations Related to Occupancy of Units for Guest Occupancy: Occupancy limitation violations are premised upon exceeding allowable occupancy limits based upon the number of persons residing in or occupying a dwelling unit pursuant to Section 404, Occupancy Limitations. It is a specific defense as to any alleged occupant that such person spent the night in the unit without remuneration as a social guest for periods of time which never exceeded a cumulative total of fourteen nights in any ninety-day period. Spending the night for the purposes of this subsection means to be on the premises during the hours of 12:00 midnight through 5:00 a.m., or to sleep on the premises for more than five hours at any time in any twenty-four hour period. If the defense is established as to an alleged occupant, that person shall be considered a social guest and not an occupant for the purposes of proof of the charge of violation. Conversely, any person who spends more than a cumulative total of fourteen nights in any ninety-day period in any dwelling unit is an occupant of that unit for those nights for the purposes of the occupancy limits established in this code.

(B) Specific Defenses to Alleged Violations Related to Occupancy of a Unit Which Is a Rental Property: The following shall constitute specific defenses to any alleged violation of Section 404 of this code relating to the occupancy of units:

- (i) It shall be a specific defense to an alleged violation of Section 404 that a defendant is a nonresident landlord or nonresident property manager and:
 - a. Prior to the initiation of the prosecution process, the defendant undertook and pursued means to avoid over-occupancy violations by:
 - 1. receiving rent payments from only those persons on a lease that includes no more than the number of tenants associated with the occupancy limitation of the unit; and
 - 2. requiring each tenant to acknowledge, through a lease provision or otherwise, the established occupancy limitation for the unit; and
- (ii) The defendant had no actual knowledge of the over-occupancy of the relevant rental housing property prior to the initiation of the prosecution process. However, this specific defense shall not apply when a defendant reasonably should have been aware of the occupancy violation.
- (iii) For the purposes of this paragraph, the initiation of a prosecution process occurs when any of the following events occurs:
 - 1. A potential defendant is first contacted by a city investigator in connection with the investigation of an occupancy violation;
 - 2. A summons and complaint alleging an occupancy violation is served upon a defendant; or
 - 3. A criminal complaint is filed against a defendant alleging an occupancy violation.

(iv) For purposes of this paragraph, a nonresident landlord or nonresident property manager means a person who is neither a full-time nor part-time resident of the property that he or she owns or manages.²⁴

(d) Other Remedies. The city attorney may maintain an action for damages, declaratory relief, specific performance, injunction, or any other appropriate relief in the District Court in and for the County of Boulder for any violation of any provision of this code or any approval granted under this code.

(e) Declaration of Use. If the code official determines that a person is using a structure in a way that might mislead a reasonable person to believe that such use is a use by right or otherwise authorized by this title, the code official may require such person to sign under oath a declaration of use that defines the limited nature of the use and to record such declaration in the office of the Boulder County Clerk and Recorder against the title to the land. In addition to all other remedies and actions that the code official is authorized to use under the Boulder Revised Code or other applicable federal, state, or local laws to enforce the provisions of this code, the code official is authorized to withhold any approval affecting such structure or land, including, without limitation, a building permit, use review, site review, subdivision, floodplain development permit, or wetland permit, until such time as the person submits a declaration of use that is in a form acceptable to the code official.

106.2—106.3 Deleted.

106.4 Violation Penalties. Deleted.

106.5 Abatement of Violation. No changes.

Section 60. Section 10-3-2, “Rental License Required Before Occupancy and License Exemptions.,” B.R.C. 1981, is amended to read as follows:

10-3-2. Rental License Required Before Occupancy and License Exemptions.

- (a) No operator shall allow, or offer to allow through advertisement or otherwise, any person to occupy any dwelling, dwelling unit or rooming unit as a tenant or lessee or otherwise for a valuable consideration unless each room or group of rooms constituting the rental property has been issued a valid rental license by the city manager, provided however, an operator may advertise for a rental of thirty days or longer, if the operator has submitted a complete rental licensing application or is advertising for pre-leasing of new construction. Any advertisement shall include the rental licensing number once assigned by the city manager.
- (b) Buildings, or building areas, described in one or more of the following paragraphs are exempted from the requirement to obtain a rental license from the city manager, provided, however that the exemptions in subsections (b)(1) and (b)(2) below shall not apply to short-term rentals. No operator shall allow any person to occupy any dwelling, dwelling unit or rooming unit exempted pursuant to subsections (b)(1) and (b)(2) below prior to submitting to the city manager an Affidavit of Exemption for the dwelling, dwelling unit or rooming unit. No person shall be issued any civil penalty or summons for failure to submit an Affidavit of Exemption, unless the person has previously been advised in writing of this requirement.

²⁴ This language is the enforcement language being moved from Chapter 9-15 as noted above.

- (1) Any dwelling unit occupied by the owner or members of the owner's family who are at least 21 years of age and housing roomers who are unrelated to the owner or the owner's family. An owner includes an occupant who certifies that the occupant owns an interest in a corporation, firm, partnership, association, organization or any other group acting as a unit that owns the rental property.
- (2) A dwelling unit meeting all of the following conditions:
 - (A) The dwelling unit constitutes the owner's principal residence;
 - (B) The dwelling unit is temporarily rented by the owner for one period of time no greater than twelve consecutive months in any twenty-four-month period;
 - (C) The dwelling unit was occupied by the owner immediately before its rental;
 - (D) The owner of the dwelling unit is temporarily living outside of Boulder County; and
 - (E) The owner intends to re-occupy the dwelling unit upon termination of the temporary rental period identified in subparagraph (b)(2)(B) of this section.
- (3) Commercial hotel and motel occupancies which offer lodging accommodations primarily for periods of time less than thirty days, but bed and breakfast facilities are not excluded from rental license requirements.
- (4) Common areas and elements of buildings containing attached, but individually owned, dwelling units.

Section 61. Section 10-3-19, "Short-Term Rentals," B.R.C. 1981, is amended to read as follows:

10-3-19. Short-Term Rentals.

- (a) Short-term rentals are prohibited unless the city manager has issued a valid short-term rental license for the property.
- (b) The city manager shall only issue a rental license for short-term rental to:
 - (1) A natural person, whose name appears on the deed to the property;
 - (2) A trust, if the beneficiary of the trust is a natural person; or
 - (3) A not-for-profit corporation licensed pursuant to Section 501(c) of the Internal Revenue Code, provided, however, the city manager shall have discretion to reject any application for a not-for-profit corporation if the city manager deems the application to be inconsistent with the goals of this chapter, which include allowing not-for-profits the opportunity support their mission through short-term rentals, preserving long term rental units and preventing investor owned short-term rentals.
- (c) Any application for a rental license for short-term rental shall include the following:
 - (1) If the applicant is a natural person, the application must include a true copy of a Colorado driver's license or Colorado identification card showing the dwelling

- unit to be licensed is the applicant's address and a sworn statement that said dwelling unit is the applicant's principal residence;
- (2) If the applicant is a trust, a true copy of a Colorado driver's license or Colorado identification card showing the dwelling unit to be licensed is a beneficiary's address and a sworn statement that said dwelling unit is a beneficiary's principal residence;
 - (3) If the applicant is a not-for-profit corporation, the application shall include proof of the corporation's status under Section 501(c) of the Internal Revenue Code and a statement of the manner in which short-term rentals serve the organization's charitable purpose;
 - (4) A certification that the dwelling unit is equipped with operational smoke detectors, carbon monoxide detectors and other life safety equipment as may be required by the city manager; and
 - (5) The names and telephone numbers of two contacts who for owner-operated rentals can be permanent residents on the property and who are capable of responding to the property within sixty minutes.
- (d) If the applicant is a natural person, the applicant's name must appear on the deed to the property on which the dwelling unit to be rented is located, and the applicant must possess at least a fifty percent fee simple ownership interest in the property.
 - (e) If the applicant is a trust, the trust must possess at least a fifty percent fee simple ownership interest in the property.
 - (f) The city manager shall not issue a license for short-term rental of a property in which an entity that is not tax exempt under Section 501(c) of the Internal Revenue Code holds a fee simple ownership interest.
 - (g) The city manager shall not issue a license for short-term rental of a permanently affordable dwelling unit.
 - (h) Short-term rentals shall not be subject to the inspection requirements of Subsection 10-3-3(b), "Terms of Licenses," B.R.C. 1981, except as set forth in subsection (o).
 - (i) The occupancy of a dwelling unit rented as a short-term rental shall not exceed the occupancy permitted pursuant to Chapter 10-2, "Property Maintenance Code," B.R.C. 1981..
 - (j) The dwelling unit rented as a short-term rental shall be the licensee's principal residence.
 - (k) No person shall rent a dwelling unit in a manner that requires or encourages a person to sleep in an area that is not habitable as that term is used in the International Property Maintenance Code as adopted in Section 10-2-2, "Adoption of the International Property Maintenance Code with Modifications," B.R.C. 1981.

25

- (l) The city manager shall not issue more than one short-term rental license to any applicant.
- (m) The city manager may not issue more than one rental license pursuant to the standards of this chapter related to the use of a dwelling or dwelling unit. The city manager shall not issue a short-term rental license for and no person shall rent as a short-term rental any dwelling, dwelling unit, rooming unit, room or portion of any of the foregoing if the dwelling, dwelling unit, or rooming unit is otherwise licensed as a rental under this chapter or is subject to an affidavit of exemption filed with the city manager pursuant to Subsection 10-3-2(b), "Rental License Required Before Occupancy and License Exemptions," B.R.C. 1981; and, if a dwelling, dwelling unit, rooming unit, room or any portion of the foregoing is licensed as a short-term rental, the city manager shall not issue a rental license for a rental other than short-term rental for and no person shall rent other than for short-term rental the dwelling, dwelling unit, rooming unit, room, or any portion of any of the forgoing.
- (n) An accessory dwelling unit or a principal dwelling unit on a detached dwelling unit lot or parcel with an accessory unit may not be rented as a short-term rental unless all the following requirements are met:
 - (1) Both the accessory dwelling unit and the principal dwelling unit were legally established by February 1, 2019;
 - (2) A current and valid short-term rental license exists for the unit;
 - (3) If the accessory dwelling unit is licensed for short-term rental, only the accessory dwelling unit and not any other dwelling unit on the same property may be licensed or used as a rental;
 - (4) If a principal dwelling unit is licensed for short-term rental, then no accessory dwelling unit on the same property may be licensed or used as a rental;
 - (5) An accessory dwelling unit may not be rented as a short-term rental for more than one hundred twenty days in any calendar year;
 - (6) Notwithstanding the provisions of subsection (i), the occupancy of the accessory dwelling unit and the principal dwelling unit must meet the requirements of Subsection 9-8-5(b), B.R.C. 1981; and

Section 62. Section 10-3-20, "Occupancy," B.R.C. 1981, is amended to read as follows:

²⁵ With occupancy rules changing and being based on the IPMC, it will not be a readily known what the occupancy limit is in a unit as it is based on bedroom size, number of bedrooms, provision of dining and living rooms. Therefore, it is unreasonable to continue to require the occupancy limit to be advertised.

10-3-20. Reserved.²⁶

Section 63. Chapter 10-11, “Cooperative Housing,” B.R.C. 1981, is amended to read as follows:

Chapter 11 Reserved.²⁷

Section 64. Section 10-12-2, “Definition,” B.R.C. 1981, is amended to read as follows:

Mobile home means a transportable, detached dwelling unit, suitable for year-round occupancy that contains the same water supply, waste disposal and electrical conveniences as immobile housing, that has no foundation other than wheels or removable jacks for conveyance on highways, and that may be transported to a site as one or more modules, but the term does not include "travel trailers," "campers," "camper buses," or "motor homes," or modular homes designed to be placed on a foundation.

Section 65. Section 11-1-13, “When Connections With Water Mains Are Required,”

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

11-1-13. When Connections With Water Mains Are Required.

- (a) All property located in the city or annexed to the city that is open to the public or used for commercial or industrial purposes or uses (other than detached dwelling units) and that requires a potable water supply for human consumption shall be connected with the water utility of the city. The owner of the property, the owner's agent or other person having charge of such property or receiving the rent for it, or a tenant of the property shall pay all applicable fees and charges when the city manager notifies such person that connection is required. The manager shall serve such notice upon the owner of such property by registered mail to the last address of the owner on the records of the Boulder County Assessor and upon the person in possession of such property by mail to the property address. Connection to the water utility is immediately required only where

²⁶ This section is superseded due to its restrictions on the number of unrelated individuals. The IPMC specifies the occupancy limits.

²⁷ The coop sections of the code are based on allowing occupancies above five unrelated persons with special approval. This conflicts with the state law and thus, all coop sections are proposed for removal from the Boulder Revised Code. Occupancy within units would just have to meet the current International Property Maintenance Code (IPMC) occupancy limits that are based on established life safety standards as noted in the state law.

there exists a city water main abutting or adjacent to any portion of the boundaries of the property upon which there is an existing structure or a proposed structure requiring the use of potable water. A private water supply may be used for irrigation on property connected to the water utility, but no person in possession of such property shall allow the water from the private supply to be used for human consumption or to be cross-connected with a line containing water from the water utility. Nothing in this subsection shall be deemed to require water connection by properties in the portion of Moore's Subdivision annexed on July 11, 1978 or specifically exempted by any written agreement with the city.

Section 66. Section 11-1-15, "Out of City Water Service," B.R.C. 1981, is amended to read as follows:

11-1-15. Out of City Water Service.

- (a) Out of city water service permits are intended for properties that may be eligible for annexation in the near future but are not presently eligible. The purpose of this section is to outline the requirements precedent to the receipt of out of city utility services. A person desiring to make connection to out of city services will be required to make such land dedication and pay such fees as would be anticipated from a similarly situated property that would annex into the city.
- (b) Any person outside of the city limits desiring to make a connection or repair to or disconnect from the water utility or to use water therefrom shall apply to the city manager for a revocable out of city water permit, which may be issued after approval of the city manager if the manager finds that the application meets the following conditions:
 - (1) The property is located within Area II of the Boulder Valley Comprehensive Plan, unless the facility to be served is a publicly owned facility that because of its nature is most appropriately located outside Area II and because of the general public interest should be served by water service;
 - (2) There is no main extension involved for such service beyond one hundred feet or in violation of the main extension limit, whichever is less;
 - (3) The city planning department has determined that the proposal does not constitute new urban development and is consistent with the comprehensive plan;
 - (4) The City has referred the application to the Boulder County Planning Department under the referral provisions of the comprehensive plan;
 - (5) The service is to be extended to a structure, which contains a legal use, that existed on the effective date of this chapter or to a platted lot with a detached dwelling unit existing on the effective date of this chapter;
 - (6) The property is located below the "Blue Line;"

- (7) The property owner agrees in an agreement running with the land to annex to the City as soon as the property is eligible for annexation; and
- (8) The property has an existing permitted out of city sewer connection or has applied for such permit in accordance with the requirements of section 11-2-10, "Out of City Sewer Service," B.R.C. 1981, and agreed to connect to sanitary sewer when eligible.

Section 67. Section 11-2-10, "Out of City Sewer Service," B.R.C. 1981, is amended to read as follows:

11-2-10. Out of City Sewer Service.

- (a) Out of city sewer service permits are intended for properties that may be eligible for annexation in the near future but are not presently eligible. The purpose of this section is to outline the requirements precedent to the receipt of out of city utility services. A person desiring to make connection to out of city services will be required to make such land dedication and pay such fees as would be anticipated from a similarly situated property that would annex into the City.
- (b) Any person outside of the city limits desiring to make a connection to the wastewater utility shall apply to the city manager for a revocable out of city wastewater permit, which may be issued after approval of the city manager if the manager finds that the application meets the following conditions:
 - (1) The property is located within Area II of the Boulder Valley Comprehensive Plan, unless the facility to be served is a publicly owned facility that because of its nature is most appropriately located outside Area II and because of the general public interest should be served by sewer service;
 - (2) There is no main extension involved for such service beyond one hundred feet;
 - (3) The city planning department has determined that this proposal does not constitute new urban development and is consistent with the comprehensive plan;
 - (4) The City has referred the application to the Boulder County Planning Department under the referral provisions of the comprehensive plan;
 - (5) The service is to be extended to a structure, which contains a legal use, that existed on the effective date of this chapter or to a platted lot with a detached dwelling unit existing on the effective date of this chapter;
 - (6) The property is located below the "Blue Line;"
 - (7) The property owner agrees in an agreement running with the land to annex to the City as soon as the property is eligible for annexation; and

(8) The property has an existing permitted out of city water connection or has applied for such permit in accordance with the requirements of section 11-1-15, "Out of City Water Service," B.R.C. 1981, and agreed to connect to water service when eligible.

Section 68. Section 11-5-5, "Discharges to the Stormwater Utility System," B.R.C. 1981, is amended to read as follows:

11-5-5. Discharges to the Stormwater Utility System.

- (a) Illicit Discharges Prohibited: No user or other person shall discharge any illicit discharge into or upon the stormwater utility system, any public highway, street, sidewalk, alley, land, public place, stream, ditch or other watercourse or into any cesspool, storm or private sewer or natural water outlet, except as specifically provided in this chapter and in accordance with the MS4 permit.
- (b) Cleaning of Hard Surfaces: The owner of any paved parking lot, street or drive shall clean the pavement as necessary to prevent the buildup of pollutants and to prevent an illicit discharge. Paved surfaces shall be cleaned by dry sweeping, wet vacuum sweeping, collection and treatment of wash water or other methods in compliance with this chapter, or other applicable federal, state and local laws.
- (c) Material Storage: No person shall store materials including, without limitation, stockpiles used in construction and landscaping activities, in a manner which may cause an illicit discharge or threatened illicit discharge into the stormwater utility system or receiving water.
- (d) Exemptions: The following discharges are exempt from the requirements established by this chapter:
 - (1) Landscape irrigation and lawn watering associated with detached dwelling units or duplexes,
 - (2) Uncontaminated groundwater or surface water pumped from a foundation drainage or crawl space system in accordance with the regulations of the Colorado Department of Public Health and Environment,
 - (3) Individual residential car washing,
 - (4) Discharges that comply with the Colorado Water Quality Control Division's Low Risk Policy Discharge Guidance or other applicable Division policies or guidance documents including:
 - (A) Dechlorinated swimming pool discharges;
 - (B) Water line and fire hydrant flushing;
 - (C) Uncontaminated groundwater infiltration;

- (D) Discharges from potable water sources that have not been used in any additional process, including without limitation any type of washing, heat exchange, manufacturing, or hydrostatic testing of pipelines not associated with treated water distribution systems; or
- (E) Discharges where the Colorado Water Quality Control Division has stated that it will not pursue permit coverage or enforcement,

Section 69. Section 12-1-2(b)(4), “Discrimination in Housing Prohibited,” B.R.C. 1981, is amended to read as follows:

12-1-2. Discrimination in Housing Prohibited.

...

- (b) The provisions of subsection (a) of this section do not apply to prohibit:
 - (1) Any religious or denominational institution or organization that is operated, supervised or controlled by a religious or denominational organization from limiting admission or giving preference to persons of the same religion or denomination or from making such selection of buyers, lessees or tenants as will promote a bona fide religious or denominational purpose.
 - (2) Owner.
 - (A) An owner or lessee from limiting occupancy of a single dwelling unit occupied by such owner or lessee as his or her residence.
 - (B) An owner from limiting occupancy of rooms or dwelling units in buildings occupied by no more than two families living independently of each other if the owner actually maintains and occupies one of such rooms or dwelling units as his or her residence.
 - (C) An owner or lessor of a housing facility devoted entirely to housing individuals of one sex from limiting lessees or tenants to persons of that sex, provided that people shall be allowed to use a housing facility that is consistent with their gender identity. In housing facilities where undressing in the presence of others occurs, owners or lessors shall make reasonable accommodations to allow access consistent with an individual's gender identity.
 - (3) The transfer, sale, rental, lease or development of housing designed or intended for the use of the physically or mentally disabled, but this exclusion does not permit discrimination on the basis of race, creed, color, sexual orientation, gender identity, gender expression, genetic characteristics, marital status, religion, religious expression, ancestry or national origin.

- (4) Compliance with any provisions of Chapter 10-2, "Property Maintenance Code," B.R.C. 1981, concerning permitted occupancy of dwelling units.
- (5) Discrimination on the basis of pregnancy, parenthood or custody of a minor child in:
 - (A) Any owner-occupied lot containing four or fewer dwelling units;
 - (B) Any residential building in which the owner or lessor publicly establishes and implements a policy of renting or selling exclusively to persons fifty-five years of age or older, but only as long as such policy remains in effect;
 - (C) Any residential institution, as defined in Section 9-16-1, "General Definitions," B.R.C. 1981;
 - (D) Any dwelling unit rented, leased or subleased for no more than eighteen months while the owner or lessee is temporarily absent, when the owner or lessee leaves a substantial amount of personal possessions on the premises;
 - (E) Any residential building located on real estate whose title was, as of November 17, 1981, encumbered by a restrictive covenant limiting or prohibiting the residence of minor children on such property, but only so long as such covenant remains in effect; and
 - (F) Up to one-third of the buildings in a housing complex consisting of three or more buildings; for purposes of this subparagraph, housing complex means a group of buildings each containing five or more units on a contiguous parcel of land owned by the same person or persons.
- (c) The provisions of subsection (a) of this section shall not be construed to require an owner or lessor of property to make any improvement to a housing facility beyond minimal building code standards applicable to the housing facility in question and approved by a state or local agency with responsibility to approve building plans and designs.

ORDINANCE 8651

AN ORDINANCE AMENDING TITLE 1, "GENERAL ADMINISTRATION," TITLE 4, "LICENSES AND PERMITS," TITLE 5, "GENERAL OFFENSES," TITLE 9, "LAND USE CODE," AND TITLE 10, "STRUCTURES," B.R.C. 1981, TO AMEND RESIDENTIAL OCCUPANCY STANDARDS TO COMPLY WITH COLORADO HOUSE BILL 24-1007, CONCERNING RESIDENTIAL OCCUPANCY LIMITS, AND SETTING FORTH RELATED DETAILS.

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

Section 1. Section 1-2-1, "Definitions," B.R.C. 1981, is amended to read as follows:

1-2-1. - Definitions.

- (a) The definitions in this chapter apply throughout this code unless a term is defined differently in a specific title, chapter or section.
- (b) The following words used in this code and other ordinances of the cCity have the following meanings unless the context clearly indicates otherwise:

...

Dwelling unit, detached means a detached principal building other than a mobile home, designed for or used as a dwelling with no more than one dwelling unit within a structure.

Duplex means a structure containing only two dwelling units.

...

Multi-unit dwelling means a building used by two or more of the following groups of persons living independently of each other in separate dwelling units but not including motels, hotels, and detached dwelling units and resorts:

...

Rooming house means an establishment where, for direct or indirect compensation, lodging, with or without kitchen facilities or meals, is offered for one month or more for three or more roomers not related to the family of the heads of the household living independently within rooming units. not related to the family of the heads of the household.

1 ...

2 Single unit dwelling means a detached principal building other than a mobile home,
3 designed for or used as a dwelling exclusively by one group of the following persons as an
4 independent living unit.:

5 (1) The members of a family plus one or two roomers. The quarters the roomers use
6 shall not exceed one third of the total floor area of the dwelling unit and shall not be a separate
7 dwelling unit;

8 (2) Up to three individuals in RR-1, RR-2, RE and RL zones;

9 (3) Up to eight persons sixty years of age or older in RR-1, RR-2, MU-2, RE and RL
10 zones;

11 (4) Up to four individuals in RM, RMX, MU-1, MU-2, MU-3, RH-1, RH-2, RH-3,
12 RH-4, RH-5, BT, BC, DT-1, DT-2, DT-3, DT-4, DT-5, IS, IG, IM, IMS, BMS and BR zones; or

13 (5) Two individuals and any of their children by blood, marriage, guardianship,
14 including foster children, or adoption.

15 ...

16 Townhouse means an attached dwelling unit located or capable of being located on its
17 own lot and separated from adjoining dwelling units by a wall extending from the foundation
18 through the roof which is structurally independent of the corresponding wall of the adjoining
19 unit.

20 ...

21 Section 2. Section 4-4-4, "Classification of Licenses," B.R.C. 1981, is amended to read
22 as follows:

23 **4-4-4. Classification of Licenses.**

24 (a) A Class A license entitles the licensee to contract for the construction, alteration,
25 wrecking, or repair of any type or size of building or structure permitted by the City of
Boulder Building Code. The annual fee for a Class A license is that prescribed in Section
4-20-4, "Building Contractor License, Building Permit Fees, and Payment of Estimated
Use Tax," B.R.C. 1981.

(b) A Class B license entitles the licensee to contract for the construction, alteration,
wrecking, or repair of all commercial and residential buildings or structures defined as
Type V, Type V-1 hour, Type IV, Type II-N, and Type III-N in the City of Boulder

1 Building Code.¹ The annual fee for a Class B license is that prescribed in Section 4-20-4,
2 "Building Contractor License, Building Permit Fees, and Payment of Estimated Use
3 Tax," B.R.C. 1981.

3 ...

4 Section 3. Section 4-13-4, "Classification of Licenses," B.R.C. 1981, is amended to read
5 as follows:

6 **4-13-4. Classifications of Licenses.**

- 7 (a) A Class A license entitles the licensee to undertake or perform any work covered by the
8 city mechanical code. The annual fee for a Class A license is that prescribed by section 4-
9 20-13, "Mechanical Contractor License and Mechanical Permit Fees," B.R.C. 1981.
- 10 (b) A Class B license entitles the licensee to undertake or perform work covered by the
11 mechanical code for commercial and dwelling units except for work associated with
12 sections 507 and 508 and the following occupancies "H" and "I" as defined in the city
13 mechanical code. The annual fee for a Class B license is that prescribed by section 4-20-
14 13, "Mechanical Contractor License and Mechanical Permit Fees," B.R.C. 1981.
- 15 (c) A Class C license entitles the licensee to undertake or perform work covered through the
16 city mechanical code for ~~one-and two-family dwellings-one detached dwelling units and~~
17 ~~two-family dwellingsduplexes~~. The annual fee for a Class C license is that prescribed by
18 section 4-20-13, "Mechanical Contractor License and Mechanical Permit Fees," B.R.C.
19 1981.

15 ...

16 Section 4. Section 4-20-4, "Building Contractor License, Building Permit Fees, and
17 Payment of Estimated Use Tax," B.R.C. 1981, is amended to read as follows:

18 **4-20-4. - Building Contractor License, Building Permit Fees, and Payment of Estimated
19 Use Tax.**

- 20 (a) An applicant for a building contractor license shall pay the following annual fee
21 according to the type of license requested:

21 ...

- 22 (f) Other fees are as follows:
23

24 _____
25 ¹Chapter 10-5, "Building Code," B.R.C. 1981.

	<i>Permit</i>	<i>Fee</i>
1		
2	(1) Demolition Permit	
3	(A) Interior/nonloadbearing	\$ 24.55
4	(B) All other	\$173.70
5	(2) Fence Permit and Retaining Wall Permit	\$4.05 for each \$100 (No maximum)
6	(3) Temporary Event Permit Fee	\$28.05
7	(4) Reinspection Fee	\$94 per occurrence (Payable before any further inspections can be done.)
8	(5) Change of Use Fee	\$81 (Can be credited to building permit fee if permit applied for and paid within ninety days.)
9	(6) After Hours Inspection	\$123 per hour - two-hour minimum
10	(7) Plan Check Fee (due at time of permit application):	
11		
12	(A) Residential, detached single family dwelling units in the RR-1, RR-2, RE, RL-1, RMX-1; and detached single family dwelling units in RL-2 on lots larger than 8,000 square feet and that are not within the boundaries of a planned development, planned residential development, planned unit development, or an approved site review; or shown on Appendix H of Title 9, Land Use Code	Fifty percent of the building permit fee
13		
14		
15		
16	(B) All other residential, single family detached dwelling units not covered by (A) above	Twenty-five percent of the building permit fee
17		
18	(C) Residential, multi-unit dwellings multifamilyfamily	Sixty-five percent of the building permit fee
19	(D) Nonresidential	Sixty-five percent of the building permit fee
20	(8) Energy Code Calculation Fee:	
21	Heat Loss Calculation Check Fee:	
22	(A) Residential	\$ 83.90
23	(B) Commercial	\$104.05
24	(9) Reinstatement of Permit	Fifty percent of Building Permit Fee (Energy Fee will not be charged if no further review is required.)
25		

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(10)	Temporary Certificate of Occupancy	\$173.70
(11)	Replacement of Lost Plans/New Red-lines:	
	(A) Residential/tenant finish	\$116.60 plus cost of reproduction
	(B) Commercial - New	\$347.60 plus cost of reproduction
(12)	Gasoline Tank Installations	\$69.54
(13)	House Moving Permit	\$58.50
(14)	Grading Fees:	
	(A) Grading Plan Review Fees:	
	(i) Fifty cubic yards or less No fee	
	(ii) Fifty-one through one hundred cubic yards \$18.65	
	(iii) One hundred one through one thousand cubic yards \$28	
	(iv) One thousand one through ten thousand cubic yards \$37.30	
	(v) Ten thousand one through one hundred thousand cubic yards - \$37.30 for the first ten thousand cubic yards, plus \$18.65 for each additional ten thousand yards or fraction thereof.	
	(vi) One hundred thousand one through two hundred thousand cubic yards - \$205.60 for the first one hundred thousand cubic yards, plus \$11.15 for each additional ten thousand cubic yards or fraction thereof.	
	(vii) Two hundred thousand one cubic yards or more - \$317.45 for the first two hundred thousand cubic yards, plus \$5.55 for each additional ten thousand cubic yards or fraction thereof.	
	(viii) Additional plan review required by changes, additions, or revisions to approved plans - \$51.30 per hour (minimum charge—one-half hour).	
	(B) Grading Permit Fees:	
	(i) Fifty cubic yards or less \$18.65	
	Fifty-one through one hundred cubic yards \$28	
	(ii) One hundred one through one thousand cubic yards - \$28 for the first one hundred cubic yards plus \$12.60 for each additional one hundred cubic yards or fraction thereof.	
	(iii) One thousand one through ten thousand cubic yards - \$145.70 for the first one thousand cubic yards, plus \$11.15 for each additional one thousand cubic yards or fraction thereof.	
	(iv) Ten thousand one through one hundred thousand cubic yards - \$246.50 for the first ten thousand cubic yards, plus \$50.25 for each additional ten thousand cubic yards or fraction thereof.	

(v) One hundred thousand one cubic yards or more - \$700.30 for the first one hundred thousand cubic yards, plus \$28 for each additional ten thousand yards or fraction thereof.

The fee for any permit issued after construction has begun shall be twice the amount of each fee listed above.

Section 5. Section 4-20-8, "Electrical Contractor Registration and Electrical Permit Fees," B.R.C. 1981, is amended to read as follows:

4-20-8. Electrical Contractor Registration and Electrical Permit Fees.

(a) For each electrical permit, the following fees shall be paid in addition to the fees established for building permits under Section 4-20-4, "Building Contractor License, Building Permit Fees, and Payment of Estimated Use Tax," B.R.C. 1981:

(1) Permit fees.

(A) Residential (one- and two-unit dwellings, and townhouses, new construction, extensive remodeling, and additions [based on enclosed living area]):

...

(B) Residential Service Change \$36.70

(C) Photovoltaic/Thermal System Permit \$69.60

(2) All other fees (including, without limitation, commercial construction and multi-unit dwelling family) based on the total cost of the electrical installations, including labor and electrical materials and items except as provided in Paragraphs (a)(3) and (a)(4) of this section:

...

Section 6. Section 4-20-43, "Development Application Fees," B.R.C. 1981, is amended to read as follows:

4-20-43. Development Application Fees.

...

(b) Land use regulation fees:

(1) Applicant for a blue line amendment shall pay \$524.

(2) An applicant for zoning of land to be annexed shall pay the following fees:

1 Feasibility study

2 Annexation feasibility study \$2,100

3 (Will apply as credit to initial annexation application fee if submitted within the same
4 calendar year.)

5 Simple Single-Family ~~Single family~~ Residential Detached Dwelling Unit

6 Initial application \$5,000

7 Reapplication for same type of revision on same property within six months (if initial
8 application is withdrawn or denied) \$2,500

9 ...

10 Section 7. Section 4-20-44, "Floodplain Development Permits and Flood Control

11 Variance Fees," B.R.C. 1981, is amended to read as follows:

12 **4-20-44. Floodplain Development Permits and Flood Control Variance Fees.**

13 (a) If the floodplain development permit is for a development not located within the
14 conveyance zone:

15 ...

16 (4) An applicant for a floodplain development permit for work on an existing
17 residential structure exceeding the threshold for "substantial damage," "substantial
18 improvement" or "substantial modification" as defined in Section 9-16-1,
19 "General Definitions," B.R.C. 1981, or any new ~~single family detached~~
20 residential, new commercial, or mixed use, or attached residential
21 structure residential, commercial, or mixed-use structure elevated to flood
22 protection elevation shall pay \$700.

21 ...

22 Section 8. Section 4-20-69, "Cooperative Housing License Fee," B.R.C. 1981, is

23 repealed and reserved:

24 **4-20-69. Cooperative Housing License Fee. Reserved.**

1 **RESERVED.**

2 The following fees shall be paid before the city manager issues, renews or recertifies a
3 cooperative housing license or renew a rental license:

4 (a) ~~— \$645 per license or renewal.~~

5 (b) ~~— To cover the cost of investigative inspections, the city manager will assess to licensees a~~
6 ~~\$250 fee per inspection, where the city manager has performed an investigative~~
7 ~~inspection to ascertain compliance with or violations of Chapter 10-11 "Cooperative~~
8 ~~Housing," B.R.C. 1981.~~

9 Section 9. Section 4-22-6, "Conveyances to Which Chapter Not Applicable," B.R.C.

10 1981, is amended to read as follows:

11 **4-22-6. Conveyances to Which Chapter Not Applicable.**

12 Nothing in this chapter applies to the installation or operation of an elevator, dumbwaiter,
13 materials lift, escalator or moving walk in a private residence. For purposes of this chapter, the
14 term *private residence* means a dwelling unit ~~which is occupied only by the members of a single~~
15 ~~family. regulated under the Residential Code of the City of Boulder. which is occupied only by~~
16 ~~the members of a single family.~~^[39]

17 Section 10. Section 4-23-2, "Permit Issuance," B.R.C. 1981, is amended to read as
18 follows:

19 **4-23-2. Permit Issuance.**

20 (a) Upon designation of a neighborhood permit parking zone pursuant to Section 2-2-15,
21 "Neighborhood Permit Parking Zones," B.R.C. 1981, the city manager shall issue parking
22 permits for vehicles owned by or in the custody of and regularly used by residents of such
23 zone, by persons employed by a business located within such zone, and, if provided in the
24 zone, by individual nonresidents upon receipt of a completed application therefor and
25 payment of the fees prescribed in Section 4-20-49, "Neighborhood Parking Permit Fee,"
B.R.C. 1981.

...

(c) Resident Permits. No more than two resident permits shall be in effect at any time for any
person. No person shall be deemed a resident of more than one zone, and no more than
one permit may be issued for any one vehicle even if persons residing in different zones
share ownership or use. ~~Provided, however, that no more than a total of three resident~~
~~permits may be issued for any dwelling unit housing a group of persons or organization~~
~~licensed pursuant to Section 10-11-3, "Cooperative Housing Licenses," B.R.C. 1981.~~

1 ...

2 Section 11. Section 4-23-3, "Guest Permits," B.R.C. 1981, is amended to read as follows:

3 **4-23-3. Guest Permits.**

4 Residents of a zone may obtain two two-week permits per year at no cost for use by
5 houseguests of the resident. The permit shall be indelibly marked in the space provided thereon
6 with, or for digital permits shall indicate, the date of its first use. The permit shall thereafter be
7 valid only for the succeeding thirteen consecutive days. The manager may by regulation define
8 the circumstances under which additional guest permits may be issued in cases of reasonable
9 need consistent with residential use of the dwelling. ~~Provided, however, that no more than a total
of six two-week guest permits per year may be issued for any dwelling unit licensed pursuant to
Section 10-11-3, "Cooperative Housing Licenses," B.R.C. 1981.~~ Provided, however, that no more
than a total of six two-week guest permits per year may be issued for any dwelling unit licensed
pursuant to Section 10-11-3, "Cooperative Housing Licenses," B.R.C. 1981.

10 Section 12. Section 6-1-12, "Damaging Prairie Dog Burrows Prohibited," B.R.C. 1981,
11 is amended to read as follows:

12 **6-1-12. Damaging Prairie Dog Burrows Prohibited.**

13 (a) Except as authorized by other provisions of this chapter, no person shall damage any
14 prairie dog burrow.

15 (b) It shall be an affirmative defense to a violation of this section that:

16 ...

17 (6) The burrow was on the property of a ~~single-family residence~~ detached dwelling
18 unit in which the person who destroyed the burrow, or authorized its destruction,
was residing;

19 ...

20 Section 13. Section 6-1-36, "Procedures for Obtaining Prairie Dog Lethal Control
21 Permits," B.R.C. 1981, is amended to read as follows:

22 **6-1-36. Procedures for Obtaining Prairie Dog Lethal Control Permits.**

23 (a) Except as otherwise provided in this chapter, no person shall utilize lethal control
24 measures for prairie dogs without first having obtained a lethal control permit from the
25

1 city manager.

2 ...
3 (h) Owners or occupants of residential lots containing a detached dwelling unit ~~single~~
4 ~~residence~~ may, at any time, obtain a lethal control permit to exterminate prairie dogs on
5 their property. No fee shall be charged for such a lethal control permit and no waiting
6 period longer than that period of time reasonably required to process an application shall
7 be required.

8 ...
9 (3) Lots containing ~~multi-family-unit~~ residential structures shall not qualify for
10 treatment under this subsection.

11 Section 14. Section 6-3-3, "Accumulation of Trash, Recyclables, and Compostables
12 Prohibited," B.R.C. 1981, is amended to read as follows:

13 **6-3-3. Accumulation of Trash, Recyclables, and Compostables Prohibited.**

14 (a) No owner of any vacant land or property; occupant, owner, or manager of any ~~single-~~
15 ~~family~~ detached dwelling unit or similar property; owner, manager, or operator of any
16 ~~multiple family-unit~~ dwelling, private club, or similar property; or owner, operator,
17 manager, or employee of any commercial or industrial establishment or similar property
18 shall fail to:

19 ...
20 Section 15. Section 6-3-4, "Containers Required," B.R.C. 1981, is amended to read as
21 follows:

22 **6-3-4. Containers Required.**

23 No owner or occupant of any ~~single-family~~ detached dwelling unit; owner or manager of any
24 ~~multiple family-unit~~ dwelling or private club; or owner, operator, or manager of any business; or
25 any similar property shall fail to provide at all times one or more trash containers on such
property. Such containers shall be of a size sufficient to accommodate the regular accumulation
of trash from the property.

26 Section 16. Section 6-3-12, "Bear-Resistant Containers Required," B.R.C. 1981, is
27 amended to read as follows:

1 **6-3-12. Bear-Resistant Containers Required.**

2 (a) No private owner, agent appointed pursuant to Section 10-3-14, "Local Agent Required,"
3 B.R.C. 1981, or manager of any property, lessee leasing the entire premises, or adult
4 occupant of a ~~single-family~~detached dwelling unit, a duplex, a triplex, or a fourplex shall
5 fail to keep all refuse attractants in bear resistant enclosures, in bear resistant containers,
6 bear resistant dumpsters or securely stored within a house, garage, shed or other structure
7 at least as secure as a bear resistant enclosure at all times, except when being transported
8 from a house, garage or bear resistant enclosure for pickup. Refuse attractants transported
9 for pickup not in a bear resistant container shall be attended, by a person remaining
10 within 15 feet of the container at all times. It is not a defense to a violation of this section
11 that a container or enclosure was damaged and the owner had not received the notice
12 under subsection (d) below.

13 ...

14 (d) No private owner, agent appointed pursuant to Section 10-3-14, "Local Agent Required,"
15 B.R.C. 1981, or manager of any property, lessee leasing the entire premises, or adult
16 occupant of a ~~single-family~~detached dwelling unit, a duplex, a triplex, or a fourplex shall
17 fail to repair a damaged container or enclosure within seventy-two hours after written
18 notification by any city official, or such other time designated in the notice by the city
19 official.

20 (e) If the city manager finds a violation of any provision of this section, the manager, after
21 notice and an opportunity for hearing under the procedures prescribed by Chapter 1-3,
22 "Quasi-Judicial Hearings," B.R.C. 1981, may impose a civil penalty according to the
23 following schedule:

- 24 (1) For the first violation of the provision, \$100.00;
- 25 (2) For the second violation of the same provision, \$250.00;
- (3) For the third violation of the same provision, \$500.00; and
- (4) The hearing officer may adjust the penalty, based on evidence presented at a hearing.

(f) The city manager's authority under this section is in addition to any other authority the manager has to enforce this chapter, including but not limited to Section 5-2-4, "General Penalties," B.R.C. 1981, and election of one remedy by the manager shall not preclude resorting to any other remedy as well.

(g) The city manager may, in addition to taking other collection remedies, certify due and unpaid charges to the Boulder County Treasurer for collection as provided by Section 2-2-12, "City Manager May Certify Taxes, Charges, and Assessments to County Treasurer for Collection," B.R.C. 1981.

1 (h) Notice under this subsection is sufficient if hand delivered, emailed, mailed, or
2 telephoned to such person, or by posting on the premises.

3 Section 17. Section 6-4-9, "Entryway," B.R.C. 1981, is amended to read as follows:

4 **6-4-9. Entryway.**

5 (a) No person shall smoke within any entryway of a building, enclosed area, or common
6 entrance to a ~~multifamily~~ multi-unit dwelling, except a ~~single-family~~ detached dwelling
7 unit.

7 ...

8 Section 18. Section 6-10-11, "Pre-Application Notification of Airborne Application,"
9 B.R.C. 1981, is amended to read as follows:

10 **6-10-11. Pre-Application Notification of Airborne Application.**

11 (a) Prior to airborne application of any pesticide, no contracting party or other user of
12 pesticides, shall fail to give notice to all occupants of all adjacent properties. For purposes
13 of this section, properties located diagonally from the affected property and touching only
14 on a property corner or other point shall be considered to be adjacent, and rights-of-way
15 shall be disregarded in such determinations.

14 ...

15 (g) If a commercial property or an attached (i.e., ~~multi-family~~ unit) residential dwelling is
16 located adjacent to property on which an airborne application of any pesticide is to occur
17 as set forth above, no contracting party or other user of pesticides shall fail to make a
18 reasonable attempt to notify the owner or manager of the property at least forty-eight
19 hours prior to the pesticide application. Upon receipt of such notice, such owner or
20 manager shall not fail to post in a prominent place the information that the adjacent
21 property will be treated.

22 Section 19. Section 6-12-2, "Definitions," B.R.C. 1981, is amended to read as follows:

23 ~~Multi-family~~ Multi-unit customer means the ~~occupants~~ residents, taken together, of
24 a residential building or set of residential buildings that uses a collective, common system for the
25 collection of trash generated by the ~~occupants~~ residents.

26 Section 20. Section 6-12-5, "Containers for Recycling or Composting Collection,"
27 B.R.C. 1981, is amended to read as follows:

1 **6-12-5. Containers for Recycling or Composting Collection.**

- 2 (a) Haulers providing trash collection service to multi-unit family customers through
3 centralized collection areas shall provide containers for recyclable materials at no
4 additional charge. Containers shall be of a sufficient size to accommodate the regular
5 accumulation of recyclables from that customer, but, at a minimum, such containers shall
6 be of a volume equal to one-half of the volume of the trash collection service. If the city
manager requires the collection of compostables, haulers shall provide containers for that
service of a sufficient size to accommodate the regular accumulation of compostables
from that customer.

7 ...

8 Section 21. Section 6-12-6, "Disposition of Recyclable or Compostable Materials,"

9 B.R.C. 1981, is amended to read as follows:

10 **6-12-6. Disposition of Recyclable or Compostable Materials.**

- 11 (a) No person other than the person placing the recyclables or compostables for
12 collection or that person's designated hauler shall take physical possession of any
recyclables or compostables separated from trash, set out in the vicinity of the curb
or alleys, and plainly marked for recyclables or compostables collection.
- 13 (b) Each property owner, property manager, residential customer, commercial customer,
14 or multi-unit family customer shall relinquish recyclable materials to a hauler only
15 on the condition that the hauler deliver the recyclable materials only to a recyclables
processing center as set forth in subparagraph (c) below.

16 ...

17 Section 22. Section 7-6-14, "Unauthorized Parking Prohibited," B.R.C. 1981, is
18 amended to read as follows:

19 **7-6-14. Unauthorized Parking Prohibited.**

- 20 (a) No vehicle shall be parked upon any public or private property without the express or
21 implied consent of the owner, lessee or occupant of the property or for a time period in
22 excess of or in a manner other than that for which consent was given by such person.
- 23 (b) For the purposes of this section, there is an implied consent to park in areas set aside for
24 parking on any private or public property except on property used as a ~~single-family~~
residence detached dwelling unit, but such implied consent is deemed revoked with
25 respect to any person who has parked a vehicle or has allowed a vehicle to remain parked
in disregard of or contrary to the direction or intended function of any of the following:

...

1 Section 23. Section 7-6-24, "All-Night Parking of Commercial Vehicle, Camper or
2 Motor Home, or Trailer Prohibited," B.R.C. 1981, is amended to read as follows:

3 **7-6-24. All-Night Parking of Commercial Vehicle, Camper or Motor Home, or Trailer**
4 **Prohibited.**

- 5 (a) No commercial vehicle shall be parked on any street in any district of the city zoned RR-
6 1, RR-2, RE, RL-1, RL-2, RM-1, RM-2, RM-3, RMX-1, RMX-2, RH-1, RH-2, RH-3,
7 RH-4, RH-5, ~~RH-6, RH-7~~, MH, P, or A for more than thirty minutes between 8 p.m. and
8 7 a.m. The penalty for a first violation of this section is \$40. The penalty for a second
9 violation of this section by the same vehicle or the same registered owner of a vehicle is
10 \$50. The penalty for a third and any subsequent violation of this section by the same
11 vehicle or the same registered owner of a vehicle is \$60.
- 12 (b) No camper, motor home, or trailer shall be parked on any street except as follows:
- 13 (1) When located directly on a street frontage of the ~~single-family~~ detached dwelling
14 unit or ~~multi-family-unit~~ dwelling of the vehicle's registered owner for a
15 consecutive period of forty-eight hours or less; or

16 ...
17 Section 24. Section 7-7-5, "Private Towing and Impounding of Vehicle Parked Without
18 Authorization on Private Property," B.R.C. 1981, is amended to read as follows:

19 **7-7-5. Private Towing and Impounding of Vehicle Parked Without Authorization on**
20 **Private Property.**

- 21 (a) The owner or lessee of real property or an agent authorized by the owner or lessee may
22 cause any motor vehicle, parked on such property without the permission of the owner,
23 lessee or occupant of the property, to be removed or impounded by a towing carrier, but,
24 except on property used as a ~~single-family residence~~ detached dwelling unit, only if any
25 applicable requirements of Subsection 7-6-14(b), B.R.C. 1981, and subsection (b) of this
section have been met. It is not necessary that a citation be issued for violation of Section
7-6-14, "Unauthorized Parking Prohibited," B.R.C. 1981, for a vehicle to be removed or
impounded pursuant to this section.
- (b) Except on property used as a ~~single-family residence~~ detached dwelling unit, the owner,
lessee or occupant of real property or an agent thereof, prior to causing the removal and
impoundment of a motor vehicle from any area set aside for motor vehicle parking on
such person's property, shall:

26 ...

1 Section 25. Section 8-2-13, "Duty to Keep Sidewalks Clear of Snow," B.R.C. 1981, is
2 amended to read as follows:

3 **8-2-13. Duty to Keep Sidewalks Clear of Snow.**

4 (a) Removal of Snow, Ice, and Sleet from Sidewalks Required. No private owner, agent
5 appointed pursuant to Section 10-3-14, "Local Agent Required," B.R.C. 1981, or
6 manager of any property, lessee leasing the entire premises, or adult occupant of a ~~single-~~
7 ~~family detached~~ dwelling unit, a duplex, a triplex, or a fourplex shall fail to keep all public
8 sidewalks and walkways abutting the premises such person owns, leases, or occupies
9 clear of snow, ice, and sleet, as provided in this section. Such persons are jointly and
10 severally liable for such responsibility, criminally and administratively. Such persons
11 shall remove any accumulation after any snowfall or snowdrift as promptly as reasonably
12 possible and no later than twenty-four hours after the snowfall or the formation of the
13 snowdrift. Such persons shall remove the snow, ice, or sleet from the full width of all
14 sidewalks and walkways, except those with a width exceeding five feet, which must be
15 cleared to a width of at least five feet.

11 ...

12 (1) The city manager will notify the owner, agent appointed pursuant to Section 10-3-
13 14, "Local Agent Required," B.R.C. 1981, or manager of any property, the lessee
14 leasing the entire premises or any adult occupant of a ~~single family detached~~
15 dwelling unit, a duplex, a triplex, or a fourplex, that such person must remove the
16 snow within the earlier of twenty-four hours or 12 noon of the day following the
17 notice.

17 Section 26. Section 8-9-2, "Definitions," B.R.C. 1981, is amended to read as follows:

18 For purposes of this chapter and the related fees in Chapter 4-20, "Fees," B.R.C. 1981, the
19 following words have the following meanings, unless the context clearly indicates otherwise:

20 ...

#

21 ~~*Multifamily residential* means all other residential not included in the definition of single~~
22 ~~family residential as defined in this section.~~

23 ...

24 ~~*Single family residential* means a single family detached dwelling unit, single family~~
25 ~~attached dwelling unit that is townhouse or a duplex, or mobile home.~~

25 ...

1 Section 27. Section 9-2-3, "Variances and Interpretations," B.R.C. 1981, is amended to
2 read as follows:

3 **9-2-3. Variances and Interpretations.**

4 (a) Purpose: This section identifies those standards that can be varied by either the city
5 manager or the Board of Zoning Adjustment (BOZA). Some standards can be varied by
6 the city manager through an administrative Review process, others by BOZA by another
7 level of administrative Review. The city manager may defer any administrative decision
8 pursuant to this section to BOZA. This section also identifies which city manager
9 interpretations of this title may be appealed to BOZA and establishes a process for such
10 appeals.

11 ...

12 (c) Administrative Variances: The city manager may grant a variance from:

13 ...

14 (3) The minimum requirements of Section 9-7-11, "Maximum Building Coverage,"
15 and Section 9-8-2, "Floor Area Ratio Requirements," to existing ~~single-~~
16 ~~familydetached~~ dwelling units, by up to two hundred square feet. The purpose of
17 this administrative variance is to permit minor modifications to ~~single-~~
18 ~~familydetached~~ dwelling units that will allow residents or a family member of a
19 head of household with existing or anticipated impairments that restricts their
20 ability to perform a major life activity to be in the home. This variance may be
21 granted if the city manager finds that:

22 (A) The request meets the requirements of Subparagraphs (h)(5)(A) and (B) of
23 this section; and

24 (B) The improvements are necessary to remedy any impairment, or anticipated
25 impairment, that would prohibit or significantly restrict a resident's or a
family member of a head of household's ability to perform a major life
activity as compared to the ability of the average person in the general
population to perform the same activity.

(4) The height of the plane above a side lot line in bulk plane requirements of Section
9-7-9, "Side Yard Bulk Plane," B.R.C. 1981, and the side yard wall articulation
standards of Section 9-7-10, "Side Yard Wall Articulation Standards," B.R.C.
1981, may vary by up to twenty percent and the building coverage requirements

1 of Section 9-7-11, "Maximum Building Coverage," or the floor area ratio
2 requirements of Section 9-8-2, "Floor Area Ratio Requirements," by up to two
3 hundred square feet for existing ~~single-family~~detached dwelling units if the
4 manager finds that the application satisfies all of the requirements in Subsection
5 (h) of this section.

6 ...

7 Section 28. Section 9-3-11, "Medium Density Overlay Zone," B.R.C. 1981, is amended
8 to read as follows:

9 **9-3-11. Medium Density Overlay Zone.**

10 (a) Purpose and Scope: Medium density residential areas adjacent to the downtown central
11 business district originally developed with a ~~predominantly single-family~~ character
12 predominantly composed of detached dwelling units and are now redeveloping with
13 higher densities. Development and redevelopment in certain RM-2 and RM-3 zoning
14 districts has been very disruptive of the existing residential character of those areas, has
15 failed to preserve certain historic structures, has led to many inappropriate structures
16 being erected and thus has negatively affected the value of adjoining properties. The
17 medium density overlay zone map which designates those portions of the medium density
18 areas to which this section applies is set forth as ~~appendix~~ Appendix D, "Medium Density
19 Overlay Zone," of this title.

20 (b) Additional Regulations: The following additional regulations shall apply in the medium
21 density residential overlay zone:

- 22 (1) No person shall construct a second detached dwelling on a lot as set forth in
23 Section 9-7-12, "Two Detached Dwellings on a Single Lot," B.R.C. 1981.
24 (2) No person shall create additional ~~multiple~~ dwelling units except that one
25 additional dwelling unit per lot may be created by internal conversions of existing
principal structures that are not enlarged in size subsequent to September 2, 1993,
and provided that such conversions do not involve exterior modifications other
than for access, including, without limitation, doors, windows and stairways.

26 Section 29. Section 9-3-12, "Opportunity Zone Overlay," B.R.C. 1981, is amended to
27 read as follows:

28 **9-3-12. Opportunity Zone Overlay.**

29 (a) Legislative Intent: The purpose of this section is to enact an overlay zone for Census
30 Tract 122.03, described in Appendix O, "Census Tract 122.03," and associated standards
31 in order to protect the public health, safety and welfare:

- 1 (1) Federal Census Tract 122.03 was certified by the federal government as an
2 opportunity zone;
- 3 (2) Investors in the opportunity zone, through opportunity zone funds, will receive
4 favorable tax relief as an incentive to invest in business and real estate within
5 Census Tract 122.03;
- 6 (3) It is anticipated that opportunity zone funds may lead to accelerated investment in
7 Census Tract 122.03;
- 8 (4) The Boulder Valley Comprehensive Plan provides that the city will work with
9 neighborhoods to protect and enhance neighborhood character and livability and
10 preserve the relative affordability of existing housing stock;
- 11 (5) The Boulder Valley Comprehensive Plan describes that the city will make special
12 efforts to preserve and rehabilitate existing housing servicing low-, moderate-,
13 and middle-income households; and
- 14 (6) It is the intent of this section to prevent accelerated demolition of the existing
15 relatively affordable multi-family-unit dwelling housing stock in Census Tract
16 122.03 to protect existing neighborhood character in this area and preserve the
17 existing housing stock and its relative affordability.

...

- 18 (e) Unsafe Buildings: As an exception to the standards of this section, a building or part
19 thereof may be demolished if the city manager has declared the building or relevant part
20 thereof to be unsafe or dangerous to the general public, ~~occupants~~ residents, or property or
21 otherwise unfit for human occupancy, and such that it is unreasonable to repair the
22 structure or relevant part thereof. In making such determination, the city manager will
23 consider the deficiencies of the structure or part thereof, including without limitation,
24 damage, decay, faulty construction, potential for collapse, disrepair or the presence of
25 health and safety concerns such as unsanitary conditions, infestation of rats or vermin, the
presence of filth and contamination, or other conditions that constitute a hazard to
~~occupants~~ residents or the public.
- (f) Maintenance: The city council intends to preserve from deliberate or inadvertent neglect
attached dwelling units in Census Tract 122.03. No owner, lessee or occupant of an
attached dwelling unit shall fail to comply with the ordinances of the city regulating
property maintenance, including without limitation Chapter 10-2, "Property Maintenance
Code," B.R.C. 1981.

21 Section 30. Section 9-5-2, "Zoning Districts," B.R.C. 1981, is amended to read as
22 follows:
23
24
25

1 **9-5-2. Zoning Districts.**

2 (a) Classification: Zoning districts are classified according to the following classifications
3 based on the predominant character of development and current or intended use in an area
4 of the community:

- 5 (1) R: Residential;
- 6 (2) M: Mixed Use, a mix of residential and business;
- 7 (3) B: Business;
- 8 (4) DT: Downtown business zones;
- 9 (5) I: Industrial;
- 10 (6) P: Public;
- 11 (7) A: Agricultural.

12 ...

13 (c) Zoning District Purposes:

14 (1) Residential Districts and Complementary Uses:

15 (A) Residential - Rural 1, Residential - Rural 2, Residential - Estate, and
16 Residential - Low 1: Primarily ~~single-family~~ detached dwelling units with
17 some duplexes and attached dwelling units at low to very low residential
18 densities.

19 ...

20 (D) Residential - Mixed 1: Mixed density residential areas with a variety of
21 ~~single-family~~, detached dwelling units, duplexes, and multi-family units
22 dwellings that will be maintained; and where existing structures may be
23 renovated or rehabilitated.

24 ...

25 (H) Residential - High 6: High density residential urban areas that are
26 ~~predominately~~ predominantly townhouses in close proximity to either a
27 primary destination or a transit center and where complementary uses may
28 be allowed.

29 ...

1 Section 31. Section 9-6-3, "Specific Use Standards - Residential Uses," B.R.C. 1981, is
2 amended to read as follows:

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

4 ...

5 **(j) Congregate Care Facility, Custodial Care Facility, and Residential Care Facility:**

6 (1) Applicability: This subsection (j) sets forth standards for congregate care
7 facilities, custodial care facilities, and residential care facilities that are subject to
specific use standards pursuant to Table 6-1, Use Table.

8 (2) Intensity: The number of dwelling units or sleeping rooms or accommodations shall
9 be consistent with Section 9-8-6, "Density Equivalencies for Group Residences and
Hostels," B.R.C. 1981.

10 ~~Standards: The following standards apply to any such facility that may be~~
11 ~~approved as a conditional use or pursuant to a use review:~~

12 (A) ~~For purposes of density limits in Section 9-8-1, "Schedule of Intensity~~
13 ~~Standards," B.R.C. 1981, and occupancy limits, six occupants, including~~
14 ~~staff, in any custodial, residential, or congregate care facility constitute~~
15 ~~one dwelling unit, but the city manager may increase the occupancy of a~~
16 ~~residential care facility to eight occupants, including staff, if:~~

17 (i) ~~The floor area ratio for the facility complies with standards of the~~
18 ~~Colorado State Departments of Health and Social Services and~~
19 ~~Chapter 10-2, "Property Maintenance Code," B.R.C. 1981; and~~

20 (ii) ~~Off-street parking is appropriate to the use and needs of the facility~~
21 ~~and the number of vehicles used by its occupants, regardless of~~
22 ~~whether it complies with other off-street parking requirements of~~
23 ~~this chapter.~~

24 ...

25 **(l) Group Home Facility:**

(1) The following standards apply to any group home facility that may be approved
as a conditional use or pursuant to a use review:

(A) General Standards: Any group home facility approved as a conditional use
or pursuant to a use review shall meet the following standards:

1 (i) Intensity: The number of dwelling units or sleeping rooms or
2 accommodations shall be consistent with Section 9-8-6, "Density
3 Equivalencies for Group Residences and Hostels," B.R.C. 1981.

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

10 a. ~~The floor area ratio for the facility complies with standards~~
11 ~~of the Colorado State Departments of Public Health and~~
12 ~~Environment and Human Services and Chapter 10-2,~~
13 ~~"Property Maintenance Code" B.R.C. 1981; and~~

14 b. ~~Off street parking is appropriate to the use and needs of the~~
15 ~~facility and the number of vehicles used by its occupants,~~
16 ~~regardless of whether it complies with other off street~~
17 ~~parking requirements of this chapter.~~

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

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

23 (m) **Transitional Housing:**

24 (1) The following standards apply to any transitional housing facility that may be
25 approved as a conditional use or pursuant to a use review:

1 (A) General Standards: Any transitional housing approved as a conditional use
2 or pursuant to a use review shall meet the following standards:

3 (i) Density: The maximum number of dwelling units with transitional
4 housing facility shall be the same as is permitted within the
5 underlying zoning district, except that for any zoning district that is
6 classified as an industrial zoning district pursuant to Section 9-5-2,
7 "Zoning Districts," B.R.C. 1981, the number of dwelling units
8 permitted shall not exceed one dwelling unit for each one thousand
9 six hundred square feet of lot area on the site.

10 ~~(ii) Occupancy: No person shall occupy such dwelling unit within a
11 transitional housing facility except in accordance with the
12 occupancy standards set forth in Section 9-8-5, "Occupancy of
13 Dwelling Units," B.R.C. 1981, for dwelling units.~~

14 (iii) Parking: The facility shall provide one off-street parking space for
15 each dwelling unit on the site. The approving authority may grant a
16 parking deferral of up to the higher of fifty percent of the required
17 parking or what otherwise may be deferred in the zoning district if
18 the applicant can demonstrate that the criteria set forth in
19 Subsection 9-9-6(e), B.R.C. 1981, have been met.

20 ...

21 Section 32. Section 9-6-5, "Specific Use Standards- Commercial Uses," B.R.C. 1981, is
22 amended to read as follows:

23 **9-6-5. Specific Use Standards - Commercial Uses.**

24 **FOOD, BEVERAGE, AND LODGING**

25 (a) **Bed and Breakfast:**

(1) The following standards apply to bed and breakfast uses that may be approved as
a conditional use or pursuant to a use review:

...
26

(C) No structure contains more than twelve guest rooms. The number of guest
rooms shall not exceed the occupancy limitations set forth in Section 9-8-
6, "Density Occupancy Equivalencies for Group Residences and Hostels,"
B.R.C. 1981.

...
27

1 Section 33. Section 9-7-2, "Setback Standards," B.R.C. 1981, is amended to read as
2 follows:

3 **9-7-2. Setback Standards.**

4 (a) Front Yard Setback Reductions: The front yard setback required in Section 9-7-1,
5 "Schedule of Form and Bulk Standards," B.R.C. 1981, may be reduced for a principal
6 structure on any lot if more than fifty percent of the principal buildings on the same block
7 face or street face do not meet the required front yard setback. The setback for the
8 adjacent buildings and other buildings on the block face shall be measured from the
9 property line to the bulk of the building, excluding, without limitation, any unenclosed
10 porches, decks, patios or steps. The bulk of the building setback shall not be less than the
11 average bulk of the building setback for the principal buildings on the two adjacent lots.
12 Where there is only one adjacent lot, the front yard setback reduction shall be based on
13 the average of the principal building setbacks on the two closest lots on the same block
14 face. (See Figure 7-1 of this section.)

11 ...
12 (b) Side Yard Setback Standards:

13 ...
14 (6) Existing Nonstandard Side Yard Setbacks for Existing ~~Single-Family~~ Detached
15 Dwelling Units: A second story addition that does not comply with the minimum
16 interior or combined side yard setbacks may be added to an existing ~~single family~~
17 detached dwelling unit subject to the following:

- 18 (A) The interior side yard setback for the existing ~~single-family~~ detached
19 dwelling unit complied with the setback requirements in existence at the
20 time of initial construction and was not created by a variance or other
21 procedure;
22 (B) The resulting interior side yard setback will not be less than five feet and
23 combined side yard setbacks will not be less than ten feet;
24 (C) That portion of the building in the side yard setback shall vertically align
25 with the existing first story wall.

21 Section 34. Section 9-7-8, "Accessory Buildings in Residential Zones," B.R.C. 1981, is
22 amended to read as follows:

23 **9-7-8. Accessory Buildings in Residential Zones.**

24 (a) Maximum Building Coverage: In an RR, RE, RL or RMX-1 residential zoning district,
25

1 unless the property has been designated as an individual landmark or is located within a
2 historic district under Chapter 9-11, "Historic Preservation," B.R.C. 1981, the total
3 cumulative building coverage of accessory buildings or structures between the principal
4 building rear yard setback and the rear yard property line shall not exceed five hundred
5 square feet. For a property that has been designated as an individual landmark or is
6 located within a historic district under Chapter 9-11, "Historic Preservation," B.R.C.
7 1981, such total cumulative building coverage may be increased to permit the addition of
8 one new accessory building or structure of up to five hundred square feet of coverage if
9 such property has existing structures within the principal building rear yard setback area.
10 There shall be no limitation on building coverage for accessory buildings or structures
11 located entirely within the principal building envelope except as set forth in the definition
12 of "accessory building or structure," in Chapter 9-16, "Definitions," B.R.C. 1981.

13 (b) Connections Between a Dwelling Unit and an Accessory Building Located Within the
14 Principal Building Envelope: In a residential zoning district, a ~~single-family~~ detached
15 dwelling unit may be connected to an accessory building by a breezeway that is built in
16 compliance with the principal building setback standards set forth in this chapter, or the
17 principal building setback standards in place at the time of its construction, if the
18 breezeway meets the following standards:

19 ...
20 (c) Breezeway Connections Between Accessory and Principal Buildings: In a residential
21 zoning district, a ~~single-family~~ detached dwelling unit may be connected to an accessory
22 building which is located partially or entirely within principal building rear yard setback
23 by a breezeway if the breezeway meets the following standards:

24 ...
25 (5) The sides of the breezeway above grade shall remain completely open except for
structural support columns and the walls of the accessory building and the ~~single-~~
~~family~~ detached dwelling unit to which it is attached.

26 ...
27 Section 35. Section 9-7-9, "Side Yard Bulk Plane," B.R.C. 1981, is amended to read as
28 follows:

29 **9-7-9. Side Yard Bulk Plane.**

30 (a) Purpose: Buildings with tall side walls may impact privacy, views or visual access to the
31 sky on neighboring properties. The purpose of this side yard bulk plane standard is to
32 ensure that buildings step down towards neighboring properties in order to enhance
33 privacy, preserve some views and visual access to the sky for lots or parcels that are
34

1 adjacent to new development.

2 (b) Scope: All construction related to principal and accessory buildings shall comply with the
3 bulk plane requirements of this section. This section applies to all construction related to
4 buildings, including new construction, building addition or modification of existing
5 buildings as follows:

6 (1) All residential principal and accessory buildings in the RR-1, RR-2, RE and RL-1
7 zoning districts; and

8 (2) All principal and accessory buildings that are used as ~~a detached single family~~
9 ~~land used~~welling units in the RMX-1 zoning district.

10 ...

11 Section 36. Section 9-7-10, "Schedule of Intensity Standards," B.R.C. 1981, is amended
12 to read as follows:

13 **9-7-10. Side Yard Wall Articulation.**

14 (a) Purpose: Buildings with tall side walls may impact privacy, views or visual access to the
15 sky on neighboring properties. The purpose of the side yard wall articulation standard is
16 to reduce the perceived mass of a building by dividing it into smaller components, or to
17 step down the wall height in order to enhance privacy, preserve views and visual access
18 to the sky for lots or parcels that are adjacent to new development.

19 (b) Scope: All construction related to principal and accessory buildings shall comply with the
20 side yard wall length articulation requirements of this section. This section applies to all
21 construction related to buildings, including new construction, expansion or modification
22 of existing buildings as follows:

23 (1) All residential buildings in the RR-1, RR-2, RE and RL-1 zoning districts,
24 including lots located in planned developments, planned residential developments
25 and planned unit developments.

(2) All buildings that are used as ~~a detached single family land used~~welling units in
the RMX-1 zoning district, including lots located in planned developments,
planned residential developments and planned unit developments.

...

Section 37. Section 9-7-11, "Maximum Building Coverage," B.R.C. 1981, is amended
to read as follows:

1 **9-7-11. Maximum Building Coverage.**

2 (a) Purpose: The purposes of the building coverage standards are to establish the maximum
3 percentage of lot surface that may be covered by principal and accessory buildings to
4 preserve open space on the lot, and to preserve some views and visual access to the sky
5 and enhance privacy for residences that are adjacent to new development.

6 (b) Scope: All construction related to principal and accessory buildings shall comply with the
7 building coverage requirements of this section. This section applies to all construction
8 related to residential buildings, including new construction, building additions or
9 modification of existing buildings as follows:

10 (1) All residential and principal and accessory buildings in the RR-1, RR-2, RE and
11 RL-1 zoning districts, including lots located in planned developments, planned
12 residential developments and planned unit developments.

13 (2) All principal and accessory buildings that are used as ~~a detached single family~~
14 ~~land use~~ dwelling units in the RMX-1 zoning district, including lots located in
15 planned developments, planned residential developments and planned unit
16 developments.

17 ...

18 Section 38. Section 9-8-1, "Schedule of Intensity Standards," B.R.C. 1981, is amended
19 to read as follows:

20 **9-8-1. - Schedule of Intensity Standards.**

21 The purpose of this chapter is to indicate the requirements for the allowed intensity of all types
22 of development, including maximum density for residential developments based on allowed
23 number of units ~~and occupancy~~. All primary and accessory structures are subject to the standards
24 set forth in Table 8-1 of this section except that developments within an area designated in
25 Appendix L, "Form-Based Code Areas," and subject to the standards or Chapter 9-14, "Form-
Based Code," are exempt from Table 8-1 and Sections 9-8-1 through 9-8-4, B.R.C. 1981.
Developments within an area designated in Appendix L, "Form-Based Code Areas," and subject
to the standards or Chapter 9-14, "Form-Based Code," are subject to the standards of Sections 9-
8-5, "Occupancy of Dwelling Units," 9-8-6, "~~Density Occupancy~~-Equivalencies for Group
Residences and Hostels," and 9-8-7, "Density ~~and Occupancy~~ of Efficiency Living Units,"
B.R.C. 1981. No person shall use any land within the city authorized by Chapter 9-6, "Use
Standards," B.R.C. 1981, except according to the following requirements unless modified
through a use review under Section 9-2-15, "Use Review," B.R.C. 1981, or a site review under
Section 9-2-14, "Site Review," B.R.C. 1981, or granted a variance under Section 9-2-3,
"Variances and Interpretations," B.R.C. 1981, or approved through a form-based code review
under Section 9-2-16, "Form-Based Code Review," B.R.C. 1981.

1 ...

2 Section 39. Section 9-8-2, "Floor Area Ratio Requirements," B.R.C. 1981, is amended to
3 read as follows:

4 **9-8-2. Floor Area Ratio Requirements.**

5 (a) Purpose: The purpose of the floor area ratio requirements is to limit the impacts of the use
6 that result from increased building size.

7 ...

8 (d) District-Specific Standards:

9 (1) Maximum Floor Area in the RR-1, RR-2, RE, RL-1, RL-2, and RMX-1 Zoning
10 Districts:

11 (A) Purpose: The purpose of a floor area ratio standard is to address the
12 proportionality of building size to lot size and allow variation in building
13 form within the established building envelope.

14 (B) Scope: All construction related to principal and accessory buildings shall
15 comply with the floor area ratio requirements of this section. This section
16 applies to all construction related to residential buildings, including new
17 construction, building additions, or modification of existing buildings as
18 follows:

19 (i) All ~~residential and~~ principal and accessory buildings in the RR-1,
20 RR-2, RE, and RL-1 zoning districts, including lots located in
21 planned developments, planned residential developments, and
22 planned unit developments.

23 (ii) All principal and accessory buildings ~~that are used as a detached~~
24 ~~single-family land use~~ in the RMX-1 zoning district, including lots
25 located in planned developments, planned residential
developments, and planned unit developments.

(iii) In the RL-2 zoning district, the floor area ratio requirements shall
apply to lots that are 8,000 square feet or larger, used for detached
~~single-family land uses~~ dwelling units that are not within the
boundaries of a planned development, planned residential
development, planned unit development, or an approved site
review.

(iv) In the RL-2 zoning district, the floor area ratio requirements shall
apply to all lots and parcels used for detached ~~single-family land~~

1 ~~uses~~dwelling units that are within the boundaries of a planned
2 development, planned residential development, and planned unit
3 development that are shown on Appendix H to this title.

- 4 (v) For projects subject to site review in Section 9-2-14, "Site
5 Review," B.R.C. 1981, the floor area shall be calculated based
6 upon each lot or parcel.

7 ...
8 Section 40. Section 9-8-5, "Occupancy of Dwelling Units," B.R.C. 1981, is amended to
9 read as follows:

10 **9-8-5. Occupancy of Dwelling Units.**

11 (a) ~~General Occupancy Restrictions: No person shall occupy a dwelling unit in violation of~~
12 ~~the occupancy limitations of Chapter 10-2, "Property Maintenance Code," B.R.C.1981. A~~
13 ~~violation of this section shall be considered a violation of Title 10.~~

14 (b) ~~Prior Approvals: Any requirement under a city approval granted under this title that~~
15 ~~restricts occupancy based on familial relationship, such as number of unrelated persons,~~
16 ~~or restricts occupancy beyond the occupancy permitted by Chapter 10-2, "Property~~
17 ~~Maintenance Code," B.R.C. 1981, is void and shall not be enforced. Notwithstanding the~~
18 ~~foregoing, this subsection does not apply to any residential occupancy limit based on the~~
19 ~~standards in Chapter 9-13, "Inclusionary Housing," B.R.C. 1981, or based on any local,~~
20 ~~state, federal or political subdivision affordable housing program guidelines. Subject to~~
21 ~~the provisions of Chapter 10-2, "Property Maintenance Code," B.R.C. 1981, no persons~~
22 ~~except the following persons shall occupy a dwelling unit:~~

23 (1) ~~Members of a family plus up to two additional persons. Quarters that roomers use~~
24 ~~shall not exceed one third of the total floor area of the dwelling unit and shall not~~
25 ~~be a separate dwelling unit;~~

(2) ~~Up to any five persons except within a residential development exceeding a~~
~~density of 1,600 square feet of lot area per dwelling unit in the RH-2 and RH-5~~
~~zoning districts up to four persons;~~

(3) ~~Three persons and any of their children by blood, marriage, guardianship,~~
~~including foster children, or adoption; or~~

(4) ~~A nonconforming occupancy meeting the requirements of Subsection (c) of this~~
~~section.~~

(5) ~~The occupancy level allowed by Subparagraphs 9-8-5 (a)(2) and (a)(3) do not~~
~~apply to nonconforming uses or nonconforming occupancies.~~

(b) ~~Accessory Dwelling Unit: The principal dwelling unit and accessory dwelling unit shall~~
~~be considered one dwelling unit. The occupancy of the principal dwelling unit together~~

1 with the occupancy of any accessory dwelling unit shall not exceed the occupancy
2 requirements set forth in this section for one dwelling unit; provided, however, for
3 purposes of this subsection only, any occupant and his or her dependents shall be counted
4 as one person. The floor area limitation for quarters used by roomers under Paragraph 9-
5 8-5(a)(1), B.R.C. 1981, shall not apply to an accessory dwelling unit.

6 (c) ~~Nonconforming Occupancy in Dwelling Units: A dwelling unit that has a legally
7 established occupancy higher than the occupancy level allowed by Subsection (a) of this
8 section may maintain such occupancy of the dwelling unit as a nonconforming
9 occupancy, subject to the following:~~

10 (1) ~~The higher occupancy level was established because of a rezoning of the property,
11 an ordinance change affecting the property, or other city approval;~~

12 (2) ~~The rules for continuation, restoration, and change of a nonconforming use set
13 forth in Chapter 9-10, "Nonconformance Standards," B.R.C. 1981, and Section 9-
14 2-15, "Use Review," B.R.C. 1981;~~

15 (3) ~~Units with an occupancy greater than five unrelated persons shall not exceed a
16 total occupancy of the dwelling unit of one person per bedroom;~~

17 (4) ~~The provisions of Chapter 10-2, "Property Maintenance Code," B.R.C. 1981; and~~

18 (5) ~~If a property owner intends to sell a dwelling unit with a non-conforming
19 occupancy that exceeds the occupancy limits in Subsection 9-8-5(a), B.R.C. 1981,
20 every such contract for the purchase and sale of a dwelling unit shall contain a
21 disclosure statement that indicates the allowable occupancy of the dwelling unit.~~

22 (d) ~~Nonconforming Uses: A nonconforming residential use that is not permitted by Section
23 9-6-1, "Schedule of Permitted Land Uses," B.R.C. 1981, or is a lot or parcel that does not
24 meet the density requirements of Chapter 9-8, "Intensity Standards," B.R.C. 1981, is
25 subject to the following:~~

(1) ~~Unless the occupancy was established meeting the requirements of Subsection (c)
of this section, the occupancy of a nonconforming use per dwelling cannot be
more than:~~

(A) ~~Three unrelated persons in P, A, RR, RE, and RL zones;~~

(B) ~~Four unrelated persons in MU, RM, RMX, RH, BT, BC, BMS, BR, DT,
IS, IG, IM, and IMS zones; or~~

(C) ~~Two persons and any of their children by blood, marriage, guardianship,
including foster children, or adoption.~~

(2) ~~The rules for continuation, restoration, and change of a nonconforming use set
forth in Chapter 9-10, "Nonconformance Standards," B.R.C. 1981, and Section 9-
2-15, "Use Review," B.R.C. 1981, apply except that occupancy cannot be more
than that permitted by Subparagraph (1).~~

(e) ~~Cooperative Housing License: A dwelling unit licensed as a cooperative housing unit
pursuant to Section 10-11-3, "Cooperative Housing Licenses," B.R.C. 1981, shall not be
subject to the occupancy limits or any exceptions as set forth in this section; and an~~

1 attached accessory dwelling unit or detached accessory dwelling unit licensed with such
2 dwelling unit as a cooperative housing unit shall not be subject to the occupancy
3 standards of Subparagraph 9-6-3(n)(1)(A)(ii), "Occupancy Requirements," B.R.C. 1981.
4 All such dwelling units together with any attached accessory dwelling unit or detached
5 accessory dwelling unit so licensed shall be limited to no fewer than five occupants with
6 the maximum number of occupants, without regard to whether the occupants are related
7 or not, as follows:

8 (1) — In the RR, RE and RL zone districts to no more than twelve occupants, provided,
9 however, that occupancy shall not exceed more than one person per two hundred
10 square feet of habitable space;

11 (2) — In all other zone districts to no more than fifteen occupants, provided, however,
12 that occupancy shall not exceed more than one person per two hundred square
13 feet of habitable space; and

14 (3) — The city manager may authorize a greater number of occupants in any cooperative
15 housing unit that is deed restricted as permanently affordable if the planning
16 board after a public hearing recommends a greater number. Before making any
17 such recommendation, the planning board shall consider the potential impacts on
18 the surrounding community, the number of residents proposed, the proposed
19 habitable square feet per person, the available off-street parking, and the mission
20 of the cooperative.

21 (f) — Prohibition: No person shall occupy a dwelling unit or accessory dwelling unit in
22 violation of this section or intentionally or negligently misrepresent the permitted
23 occupancy of a dwelling unit or accessory dwelling unit in violation of this section.

24 Section 41. Section 9-8-6, "Occupancy Equivalencies for Group Residences," B.R.C.

25 1981, is amended to read as follows:

9-8-6. Density Occupancy Equivalencies for Group Residences and Hostels.

The permitted density/~~occupancy~~ for the following uses shall be ~~computed~~ calculated as
indicated below. The density/~~occupancy~~ equivalencies shall not be used to convert existing uses
referenced in this section to dwelling units except as set forth in subsection (g). The number of
allowed dwelling units shall be determined by using Section 9-8-1, "Schedule of Intensity
Standards," B.R.C. 1981:

(a) Boarding or Rooming House, Fraternity, Sorority, or Dormitory: In boarding or rooming
houses, fraternities, sororities, or dormitories, three sleeping rooms ~~Accommodations for
three occupants in any boarding or rooming house, fraternity, sorority, or dormitory~~
constitute one dwelling unit.

(b) Hostel: In hostels, three sleeping rooms ~~Accommodations for three occupants in any
hostel~~ constitute one dwelling unit, but the planning board may increase the density of a
hostel to four ~~occupants~~ sleeping rooms per dwelling unit through a use review as
provided in Section 9-2-15, "Use Review," B.R.C. 1981.

1 (c) Custodial Care and Residential Care Facilities: In custodial care and residential care
2 facilities, The occupancy of a custodial care or a residential care facility must meet the
3 requirements of Subsection 9-6-3(j), B.R.C. 1981 eight sleeping rooms or
4 accommodations without kitchen facilities constitute one dwelling unit. If units are
5 provided in a household living configuration, one detached dwelling unit constitutes one
6 dwelling unit and one attached dwelling unit constitutes one dwelling unit.

7 (d) Group Home Facilities: In group home facilities, eight sleeping rooms or
8 accommodations without kitchen facilities constitute one dwelling unit. If units are
9 provided in a household living configuration, one detached dwelling unit constitutes one
10 dwelling unit and one attached dwelling unit constitutes one dwelling unit.~~The occupancy~~
11 ~~of a group home facility must meet the requirements of Subsection 9-6-3(l), B.R.C. 1981.~~

12 ...
13 (g) Conversion of Rooming Units to Dwelling Units: Pursuant to approval of a use review
14 under Sections 9-2-15, "Use Review," B.R.C. 1981, for nonconforming uses, r~~Rooming~~
15 units in RM and RH zoning districts that were legally established under prior zoning
16 ordinances and have continued as a legal nonconforming use may be converted to
17 dwelling units at a ratio of four rooming units to one dwelling unit.

18 Section 42. Section 9-8-7, "Density and Occupancy of Efficiency Living Units," B.R.C.
19 1981, is amended to read as follows:

20 **9-8-7. Density and Occupancy of Efficiency Living Units.**

21 (a) Dwelling Unit Equivalents for Efficiency Living Units: For purposes of the density limits
22 of Section 9-8-1, "Schedule of Intensity Standards," B.R.C. 1981, two efficiency living
23 units constitute one dwelling unit.

24 (b) Dwelling Unit Equivalents for Moderate Income Housing: For purposes of counting
25 dwelling units under the provisions of Ordinance No. 4638, as amended, "Moderate
Income Housing," one efficiency living unit equals one dwelling unit.

~~(c) Maximum Occupancy: No more than three persons shall occupy an efficiency living unit.~~

26 Section 43. Section 9-9-5, "Site Access Control," B.R.C. 1981, is amended to read as
27 follows:

28 **9-9-5. Site Access Control.**

29 (a) Access Control: Vehicular access to property from the public right-of-way shall be
30 controlled in such a manner as to protect the traffic-carrying capacity and safety of the
31 street upon which the property abuts and access is taken, ensuring that the public use and
32 purpose of public rights of way is unimpaired as well as to protect the value of the public

1 infrastructure and adjacent property. The requirements of this section apply to all land
2 uses, including ~~single-family residential land uses~~ detached dwelling units, as follows:

3 (1) For all uses, except ~~single-family residential~~ for detached dwelling units, the
4 standards shall be met prior to a final inspection for any building permit for new
5 development; redevelopment exceeding twenty-five percent of the value of the
6 existing structure; or the addition of a dwelling unit. For purposes of this
7 paragraph (1), the applicant shall demonstrate the value of the existing structure
8 by submitting, at the discretion of the applicant, either the actual value assessed
9 by the Boulder County Assessor's Office or the fair market value determined by a
10 real estate appraiser licensed in Colorado.

11 (2) For ~~single-family residential uses~~ detached dwelling units, the standards of this
12 section shall be met prior to a final inspection for any building permit for new
13 development; the demolition of a principal structure; or the conversion of an
14 attached garage or carport to a use other than use as a parking space.

15 ...
16 (c) Standards and Criteria for Site Accesses and Curb Cuts: Any access or curb cut to public
17 rights of way shall be designed in accordance with the City of Boulder Design and
18 Construction Standards and the following standards and criteria:
19 ...

20 (6) Multiple Access Points for ~~Single-Family Residential~~ Detached Dwelling Units:
21 The city manager will permit multiple access points on the same street for a single
22 lot containing a detached dwelling unit ~~single-family residential lots~~ upon finding
23 that there is at least one hundred linear feet of lot frontage adjacent to the front
24 yard on such street, the area has a limited amount of pedestrian activity because of
25 the low density character, and there is enough on-street parking within three
hundred feet of the property to meet the off-street parking needs of such area. The
total cumulative width of multiple curb cuts shall not exceed the maximum
permitted width of a single curb cut. The minimum spacing between multiple curb
cuts on the same property shall not be less than sixty-five feet.

(7) Shared Driveways for Residential Structures: A lot with a detached ~~single-family~~
~~residential lot~~ dwelling unit that does not have frontage on the street from which
access is taken may be served by a shared driveway that meets all of the standards
and criteria for shared driveways set forth in the City of Boulder Design and
Construction Standards.

24 ...

1 Section 44. Section 9-9-11, “Useable Open Space,” B.R.C. 1981, is amended to read as
2 follows:

3 **9-9-11. Useable Open Space.**

4 (a) Purpose of Open Space: The purpose of useable open space is to provide indoor and
5 outdoor areas for passive and active uses to meet the needs of the anticipated residents,
6 tenants, employees, customers and visitors of a property, and to enhance the environment
of a development or building. Open space can be used to:

7 (i) Prohibitions: Portions of a lot on which a structure or unenclosed use is located shall not
8 be counted as useable open space unless allowed in subsection (d),(e),(f) or (h) of this
9 section. Portions of a lot that are unenclosed include those areas that are designed such
10 that they cannot be enclosed and are generally open to the sky above, except for a
balcony or deck. The following are specific examples of areas that may not be counted as
useable open space:

11 ...

12 (8) Balconies, decks and patio areas attached to a ~~single-family~~ detached dwelling
13 unit which are:

14 ...

15 Section 45. Section 9-9-12, “Landscaping and Screening Standards,” B.R.C. 1981, is
16 amended to read as follows:

17 **9-9-12. Landscaping and Screening Standards.**

18 (a) Purpose: The purpose of the landscaping and screening requirements set forth in this
chapter is to:

- 19 (1) Provide minimum requirements for the landscaping of lots and parcels, street
20 frontages, streetscapes and paved areas;
- 21 (2) Provide minimum requirements to ensure the proper installation or cultivation,
and maintenance of landscaping materials;
- 22 (3) Promote sustainable landscapes and improve the quality of the environment by
enhancing air quality, reducing the amount and rate of stormwater runoff,
23 improving stormwater runoff quality, the spread of noxious weeds, and increasing
the capacity for groundwater recharge;
- 24 (4) Minimize the amount of water used for landscaping by promoting Xeriscape™
practices and improving irrigation efficiency;
- 25 (5) Enhance the appearance of both residential and nonresidential areas, and reduce

- 1 the visual impacts of large expanses of pavement and rock; and
2 (6) Minimize impacts between uses both on-site and off-site. Landscaping can
3 improve the compatibility of adjacent land uses and screen undesirable views. The
4 landscaping standards also enhance the streetscape by separating the pedestrian
5 from motor vehicles, auto fumes, and dust, providing shade, attenuating noise,
6 and filtering air, buffering wind, and reducing glare.

5 ...

6 (d) General Landscaping and Screening Requirements:

- 7 (1) Landscaping Plan: A landscaping plan designed in accordance with this section
8 and Sections 9-9-13, "Streetscape Design Standards," and 9-9-14, "Parking Lot
9 Landscaping Standards," B.R.C. 1981, shall be provided for all developments.
10 The site plan shall include the following:

- 11 (A) A site plan with a north arrow showing the major details of the proposed
12 landscaping and irrigation, prepared on a scale not less than ~~one inch~~
13 one-half inch equals thirty feet providing sufficient detail to evaluate the features of
14 the landscaping and irrigation required by this section and Sections 9-9-
15 13, "Streetscape Design Standards," and 9-9-14, "Parking Lot
16 Landscaping Standards," B.R.C. 1981;

- 17 (B) The location of property lines and adjacent streets, the zoning and use of
18 adjacent properties, the existing and proposed locations of all buildings,
19 sidewalks and curb cuts, bike paths and pedestrian walkways, drive aisles
20 and curb islands, ~~utilities, and~~ utilities, easements, and the existing
21 location, size, and type of all trees one and one-half inch caliper or greater;

16 ...

- 17 (5) Screening of Trash Collection and Recycling Areas, Service Areas, and Loading
18 Areas: In nonresidential and multi-family ~~unit~~ residential developments, trash
19 collection and recycling areas, service areas, and loading areas shall be screened
20 on all sides so that no portion of such areas are visible from public streets and
21 alleys and adjacent properties. Required screening may include new and existing
22 plantings, walls, fences, screen panels, doors, topographic changes, buildings,
23 horizontal separation, or any combination thereof.

22 Section 46. Section 9-9-13, "Streetscape Design Standards," B.R.C. 1981, is amended
23 to read as follows:

24 **9-9-13. Streetscape Design Standards.**

25 Streetscape improvements shall be designed in accordance with the following standards:

1 (a) Scope: The standards set forth in this section apply to all land uses, including ~~single-~~
2 ~~family residential land uses~~ detached dwelling units.

3 (b) Street Trees: A planting strip consisting of deciduous trees shall be planted along the full
4 length of all public and private streets in all zoning districts. When possible, trees shall be
5 planted in the public right-of-way. Large deciduous trees and detached sidewalks are
6 required wherever possible and shall be planted at a minimum, in accordance with
7 subsection (d) of this section.

8 (c) Alley Trees: Except for existing ~~single-family~~ lots with a detached dwelling unit, along
9 all alleys adjacent to or within a residential zone, trees shall be planted at an overall
10 average of one tree per forty linear feet within ten feet of the pavement or edge of alley.

11 ...

12 Section 47. Section 9-10-3, "Changes to Nonstandard Buildings, Structures, and Lots and
13 Nonconforming Uses," B.R.C. 1981, is amended to read as follows:

14 **9-10-3. Changes to Nonstandard Buildings, Structures, and Lots and Nonconforming Uses.**

15 Changes to nonstandard buildings, structures, or nonstandard lots and nonconforming uses shall
16 comply with the following requirements:

17 ...

18 (b) Nonstandard Lots or Parcels:

19 (1) Development Requirements: Vacant lots in all residential districts except RR-1
20 and RR-2 which are smaller than the lot sizes indicated in Section 9-8-1,
21 "Schedule of Intensity Standards," B.R.C. 1981, but larger than one-half of the
22 required zoning district minimum lot size, may be developed with a ~~single-family~~
23 detached dwelling unit if the building meets the setback requirements of Section
24 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981. In RR-1 and RR-2
25 districts, lots which are smaller than the minimum lot size but larger than one-
fourth of the minimum lot size may be developed if the building meets the setback
requirements. In all other zoning districts, vacant lots which are below one-half of
the required minimum lot size for the zoning district shall not be eligible for
construction of principal buildings.

...

1 Section 48. Section 9-13-3, “General Inclusionary Housing Requirements,” B.R.C.

2 1981, is amended to read as follows:

3 **9-13-3. General Inclusionary Housing Requirements.**

4 (a) Inclusionary Housing Requirements.

5 (1) A development is required to include at least twenty-five percent of the total
6 number of dwelling units as permanently affordable units.

7 (2) For required for-sale permanently affordable units, townhouses and ~~single-family~~
8 ~~homes~~ detached dwelling units shall have prices set to be affordable to one
9 hundred twenty percent of the AMI. All other types of permanently affordable
10 for-sale units shall have prices set to be affordable to one hundred percent of the
11 AMI.

12 ...

13 Section 49. Section 9-13-7, “Relationship of Permanently Affordable Units to Market

14 Units,” B.R.C. 1981, is amended to read as follows:

15 **9-13-7. Relationship of Permanently Affordable Units to Market Units.**

16 (a) Purpose: Permanently affordable units shall be comparable in quality, design and general
17 appearance to the market rate units creating the inclusionary housing requirement.

18 (b) Detached Dwelling Units: When a development contains ~~single-family~~ detached dwelling
19 units, a proportional number of the required permanently affordable units shall also be
20 ~~single-family~~ detached dwelling units or attached townhouses.

21 (c) Mixed Dwelling Unit Types: In developments with a mixture of dwelling unit types,
22 including, without limitation, ~~single-family~~ detached dwelling units, townhouses,
23 duplexes, triplexes, four-plexes, eight-plexes, and stacked flats, the required permanently
24 affordable units shall be comprised of the different dwelling unit types in the same
25 proportion as the dwelling units that are not permanently affordable within the
development except as allowed in Subsection (b) above.

26 ...

27 Section 50. Section 9-15-4, “Criminal Sanctions,” B.R.C. 1981, is amended to read as
28 follows:

29 **9-15-4. Criminal Sanctions.**

- 1 (a) The city attorney, acting on behalf of the people of the city, may prosecute any violation
2 of this title or any approval granted under this title in municipal court in the same manner
3 that other municipal offenses are prosecuted.
- 4 (b) The penalty for violation of any provision of this title is a fine of not more than
5 \$2,650,000.00 per violation. The limitation of this fine shall be adjusted for inflation on
6 January 1, 2025, and on January 1 of each year thereafter. As used in this subsection,
7 “inflation” means the Colorado consumer price index or a similar index that is tied to the
8 annual rate of inflation in the state or Denver-Boulder metropolitan area. In addition,
9 upon conviction of any person for violation of this title, the court may issue a cease and
10 desist order and any other orders reasonably calculated to remedy the violation. Violation
11 of any order of the court issued under this section is a violation of this section and is
12 punishable by a fine of not more than \$4,000.00 per violation, or incarceration for not
13 more than ninety days in jail or both such fine and incarceration.
- 14 ~~(c) Notwithstanding the provisions of subsection (b) of this section, the following specific~~
15 ~~sentencing considerations shall apply to fines imposed for violations of section 9-8-5,~~
16 ~~"Occupancy of Dwelling Units," B.R.C. 1981:~~
- 17 ~~(1) The court shall consider any evidence presented by the defendant that a potential~~
18 ~~fine would be confiscatory. A confiscatory fine is a fine that would deprive a~~
19 ~~normally capitalized owner of the ability to continue operating a rental housing~~
20 ~~business of the sort involved in the case before the court. No fine that is~~
21 ~~confiscatory shall be enforced by the court.~~
- 22 ~~(2) In imposing a fine in any single case or in any consolidated cases, the court may~~
23 ~~weigh all factors normally and properly considered in connection with the~~
24 ~~imposition of fines, including the seriousness of the violation, the past record of~~
25 ~~the defendant, the economic circumstances of the defendant and all mitigating or~~
~~aggravating factors relevant to the violation or to the defendant. In addition, in~~
~~determining the amount of any fine, the court may consider:~~
- ~~(A) The imposition of a fine that would deprive the defendant of any illegal~~
~~profit collected because of the occurrence of the over-occupancy violation~~
~~or violations on the rental housing property;~~
- ~~(B) The imposition of a reasonable penalty in addition to any level of fine that~~
~~is attributable to illegally obtained profit; and~~
- ~~(C) The imposition of such additional fine as is determined by the court to~~
~~constitute a reasonable amount to be suspended in order to ensure~~
~~compliance with any terms of probation imposed by the court.~~
- ~~(3) No fine imposed in a single case alleging multiple dates of violation, nor any fine~~
~~in consolidated cases alleging multiple days of violation, shall exceed the~~
~~maximum fine that might be imposed for fifteen separate violations unless the~~
~~court finds special aggravating circumstances. Where special aggravating factors~~
~~are at issue, the following procedures shall apply:~~

1 (A) ~~The defendant shall be entitled to ten days' notice of any special~~
2 ~~aggravating factors upon which the prosecution intends to rely at the~~
3 ~~sentencing hearing or about which, based upon evidence previously~~
4 ~~presented, the court is concerned. If necessary in order to provide such~~
5 ~~notice, a defendant shall be entitled to a continuance of the sentencing~~
6 ~~hearing.~~

7 (B) ~~A judicial finding of the existence of special aggravating factors shall not~~
8 ~~mandate that the court impose any particular level of fine but will, rather,~~
9 ~~provide the sentencing court with discretion to determine a fine based~~
10 ~~upon all the criteria set forth in this subsection.~~

11 (C) ~~Special aggravating factors, for the purpose of this subsection, shall~~
12 ~~require a judicial finding of one or more of the following:~~

13 (i) ~~The occupancy violations at issue were flagrant and intentional on~~
14 ~~the part of the defendant;~~

15 (ii) ~~The defendant, after learning of the over occupancy condition,~~
16 ~~failed to attempt corrective action over a sustained period of time;~~
17 ~~or~~

18 (iii) ~~A fine equivalent to the maximum fine permitted for fifteen~~
19 ~~separate violations would be inadequate to disgorge the defendant~~
20 ~~of illegal profits obtained as a consequence of the violations or~~
21 ~~would be inadequate to ensure that the violation is neither~~
22 ~~profitable nor revenue neutral for the offender.~~

23 Section 51. Section 9-15-9, "Multiple Dwelling Units and Occupancy- Specific
24 Defenses," B.R.C. 1981, is amended to read as follows:

25 **9-15-9. Multiple Dwelling Units and Occupancy- Specific Defenses.**

(a) Specific Defenses to Alleged Violations Related to Multiple Dwelling Units: If a charge
of violation of any provision of chapter 9-5, "Modular Zone System," 9-6, "Use
Standards," 9-7, "Form and Bulk Standards," 9-8, "Intensity Standards," or 9-9,
"Development Standards," B.R.C. 1981, is premised solely upon the multiple dwelling
units provisions of subsection 9-16-1(c), B.R.C. 1981, it is a specific defense to such
charge that, on a continuing basis, the residents of the dwelling unit share utilities and
keys to all entrances to the property and that they function as a single housekeeping unit.
For purposes of this section, to function as a single housekeeping unit means to share
major functions associated with residential occupancy and to share a single common
kitchen as the primary kitchen.

(b) ~~Specific Defenses to Alleged Violations Related to Occupancy of Units for Guest~~
~~Occupancy: If a charge of violation of any provision of chapters 9-6, "Use Standards,"~~
~~and 9-7, "Form and Bulk Standards," or section 9-8-5, "Occupancy of Dwelling Units,"~~

1 ~~B.R.C. 1981, is premised upon exceeding allowable occupancy limits based upon the~~
2 ~~number of persons residing in or occupying a dwelling unit, it is a specific defense as to~~
3 ~~any alleged occupant that such person spent the night in the unit without remuneration as~~
4 ~~a social guest for periods of time which never exceeded a cumulative total of fourteen~~
5 ~~nights in any ninety day period. Spending the night for the purposes of this subsection~~
6 ~~means to be on the premises during the hours of 12:00 midnight through 5:00 a.m., or to~~
7 ~~sleep on the premises for more than five hours at any time in any twenty four hour~~
8 ~~period. If the defense is established as to an alleged occupant, that person shall be~~
9 ~~considered a social guest and not an occupant for the purposes of proof of the charge of~~
10 ~~violation. Conversely, any person who spends more than a cumulative total of fourteen~~
11 ~~nights in any ninety day period in any dwelling unit is an occupant of that unit for those~~
12 ~~nights for the purposes of the occupancy limits established in this title.~~

13 ~~(e) Specific Defenses to Alleged Violations Related to Occupancy of a Unit Which Is a~~
14 ~~Rental Property: The following shall constitute specific defenses to any alleged violation~~
15 ~~of subsection 9-8-5(a), B.R.C. 1981, relating to the occupancy of units:~~

16 ~~(1) It shall be a specific defense to an alleged violation of subsection 9-8-5(a), B.R.C.~~
17 ~~1981, that a defendant is a nonresident landlord or nonresident property manager~~
18 ~~and:~~

19 ~~(A) Prior to the initiation of the prosecution process, the defendant undertook~~
20 ~~and pursued means to avoid over-occupancy violations by:~~

21 ~~(i) complying with advertising requirements of Chapter 10-3-2,~~
22 ~~B.R.C. 1981 and the posting requirements of Chapter 10-3-20,~~
23 ~~B.R.C. 1981;~~

24 ~~(ii) receiving rent payments from only those persons on a lease that~~
25 ~~includes no more than the number of tenants associated with the~~
26 ~~occupancy limitation of the unit; and~~

27 ~~(iii) requiring each tenant to acknowledge, through a lease provision or~~
28 ~~otherwise, the established occupancy limitation for the unit; and~~

29 ~~(B) The defendant had no actual knowledge of the over-occupancy of the~~
30 ~~relevant rental housing property prior to the initiation of the prosecution~~
31 ~~process. However, this specific defense shall not apply when a defendant~~
32 ~~reasonably should have been aware of the occupancy violation.~~

33 ~~(C) For the purposes of this subsection, the initiation of a prosecution process~~
34 ~~occurs when any of the following events occurs:~~

35 ~~(i) A potential defendant is first contacted by a city investigator in~~
36 ~~connection with the investigation of an occupancy violation;~~

37 ~~(ii) A summons and complaint alleging an occupancy violation is~~
38 ~~served upon a defendant; or~~

39 ~~(iii) A criminal complaint is filed against a defendant alleging an~~
40 ~~occupancy violation.~~

1 (D) — For purposes of this subsection, a nonresident landlord or nonresident
2 property manager means a person who is neither a full-time nor part-time
resident of the property that he or she owns or manages.

3 Section 52. Section 9-14-3, “Design Goals for the Form-Based Code Areas,” is amended
4 to read as follows, as part of a new Chapter 14, “Form Based Code Standards,” B.R.C. 1981:

5 **9-14-3. DESIGN GOALS FOR THE FORM-BASED CODE AREAS**

6 The requirements of this chapter are intended to accomplish the following objectives:

- 7 (a) **Character, Context, and Scale.** Preserve or enhance the character, context, and scale
8 planned for the area while supporting a more sustainable future by accommodating future
9 residents, reducing dependence on single occupant vehicles, increasing energy efficiency,
10 and promoting safe transportation options for pedestrians and bicycles.
- 11 (b) **Human-Scaled Building Design.** Design to a human scale and create a safe and vibrant
12 pedestrian experience.
- 13 (c) **Building Design Quality and Aesthetics.** Design high-quality buildings that are
14 compatible with the character of the area or the character established by adopted plans for
15 the area through simple, proportional, and varied design, high quality and natural
16 building materials that create a sense of permanence, and building detailing, materials
17 and proportions.
- 18 (d) **A Variety of Housing Types.** Produce a variety of housing types, such as
19 multifamily multi-unit dwelling units, townhouses, and detached single family dwelling
20 units, as well as a variety of lot sizes, number of bedrooms per unit, and sizes of units
21 within the form-based code area.
- 22 (e) **Adaptable Buildings.** Build adaptable buildings with flexible designs that allow changes
23 in uses over time.
- 24 (f) **Provision of Outdoor Space.** Provide outdoor space that is accessible and close to
25 buildings. Active and passive recreation areas will be designed to meet the needs of
anticipated residents, occupants, employees, and visitors to the property.
- (g) **Support of Multi-Modal Mobility.** Provide safe and convenient multi-modal
connections and promote alternatives to the single occupant vehicle. Connections shall be
accessible to the public within the project and between the project and the existing and
proposed transportation systems, including, without limitation, streets, bikeways, paseos,
and multi-use paths.

23 Section 53. Section 9-14-4, “Organization and Scope,” B.R.C. 1981, is amended to read
24 as follows, as part of a new Chapter 14, “Form Based Code Standards,” B.R.C. 1981:
25

1 **9-14-4. ORGANIZATION AND SCOPE**

2 This section describes how this chapter is organized to provide the user with some guidance
3 using this chapter and it addresses the scope of its application.

4 (a) **Organization.** This chapter is organized into the following sections:

5 (1) **Sections 9-14-1 through 9-14-8: General Provisions.** The general provisions
6 include a purpose statement for the form-based code, a description of where the
7 requirements for the form-based code apply, a description of this chapter's
8 organization and scope, the regulating plans for each form-based code area, and
9 definitions that apply to the terms of this chapter.

10 (2) **Sections 9-14-9 through 9-14-13: Site Design.** These sections establish general
11 site design and minimum outdoor space requirements, applicable to all form-
12 based code areas, unless otherwise specified. Outdoor space types are established
13 to guide the design of common outdoor spaces.

14 (3) **Sections 9-14-14- through 9-14-26: Building Types.** These sections establish a
15 variety of building types and building form, design, location, and use
16 requirements applicable to each building type. The regulating plans determine
17 which building type may be used on a particular site.

18 (4) **Sections 9-14-27- through 9-14-33: Building Design.** These sections establish
19 general building design requirements that are applicable to all of the building
20 types, unless otherwise stated.

21 (b) **Scope.** The requirements of this chapter supplement those imposed on the same lands by
22 underlying zoning provisions and generally applicable development standards of this title
23 and other ordinances of the city. If there is a conflict between the requirements of this
24 chapter and Title 9, "Land Use Code," B.R.C. 1981, the standards of this section control.
25 The following describes how specific requirements of this title relate to requirements of
this chapter:

(1) **Chapter 9-6: Use Standards.** Chapter 9-6, "Use Standards," B.R.C. 1981,
regulates uses which are permitted, conditionally permitted, prohibited, or which
may be permitted through use review. Additional use standards may be
established for the different building types in sections M-1-15 through M-1-19 of
this chapter.

(2) **Chapter 9-7: Form and Bulk Standards.** This chapter supersedes the standards
in Chapter 9-7, "Form and Bulk Standards," B.R.C. 1981, with the exception of
Sections 9-7-3, "Setback Encroachments," 9-7-5, "Building Heights," and 9-7-7,
"Building Heights, Appurtenances," B.R.C. 1981. Building height shall be
measured in accordance with the requirements of Section 9-7-5, B.R.C. 1981.

(3) **Chapter 9-8: Intensity Standards.** This chapter supersedes the standards in
Chapter 9-8, "Intensity Standards," B.R.C. 1981, with the exception of Sections 9-

1 8-5, "Occupancy of Dwelling Units," 9-8-6, "Density Occupancy-Equivalencies
2 for Group Residences and Hostels," and 9-8-7, "Density and Occupancy of
3 Efficiency Living Units," B.R.C. 1981.

4 (4) **Chapter 9-9: Development Standards.** Chapter 9-9, "Development Standards,"
5 B.R.C. 1981, applies to developments that are regulated by this chapter as
6 follows:

7 (5) **Applicable Sections.** The following sections of Chapter 9-9, "Development
8 Standards," B.R.C. 1981, are applicable:

- 9 (A) **9-9-1. Intent.**
- 10 (B) **9-9-2. General Provisions.**
- 11 (C) **9-9-4. Public Improvements.**
- 12 (D) **9-9-5. Site Access Control, in addition to the access location requirements**
13 in Section M-1-11(a) "Driveways," B.R.C. 1981.
- 14 (E) **9-9-6. Parking Standards.**
- 15 (F) **9-9-7. Sight Triangles.**
- 16 (G) **9-9-8. Reservations, Dedication, and Improvement of Right-of-way.**
- 17 (H) **9-9-9. Loading.**
- 18 (I) **9-9-10. Easements.**
- 19 (J) **9-9-12. Landscape and Screening Standards.**
- 20 (K) **9-9-13. Streetscape Design Standards, in addition to the requirements**
21 established in M-1-10, Streetscape Design Requirements.
- 22 (L) **9-9-14. Parking Lot Landscape Standards.**
- 23 (M) **9-9-15. Fences and Walls.**
- 24 (N) **9-9-16. Lighting, Outdoor.**
- 25 (O) **9-9-17. Solar Access.**
- (P) **9-9-18. Trash Storage and Recycling Areas.**
- (Q) **9-9-19. Swimming Pools, Spas, and Hot Tubs.**
- (R) **9-9-20. Addressing.**
- (S) **9-9-21. Signs.**
- (T) **9-9-22. Trip Generation Requirements for the MU-4, RH-6, and RH-7**
Zoning Districts.

26 (6) **Superseded Sections.** The following sections of Chapter 9-9, "Development
27 Standards," B.R.C. 1981, are superseded by this chapter:

- 28 (A) **9-9-3, Building Design, is superseded by this chapter.**
- 29 (B) **9-9-11, Useable Open Space, is superseded by the requirements of this**
30 chapter.

31 (c) **Other Sections and Ordinances.** The Boulder Revised Code and other ordinances of the
32 city are applicable unless expressly waived or modified in this chapter. If there is a
33 conflict between the requirements of this chapter and other portions of the Boulder
34 Revised Code, the requirements of this chapter shall prevail.

1 Revised Code other than Title 9, "Land Use Code," B.R.C. 1981, the most restrictive
2 standards shall control.

3 Section 54. Section 9-16-1, "General Definitions," B.R.C. 1981, is amended to read as
4 follows:

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

- 6 (a) The definitions contained in Chapter 1-2, "Definitions," B.R.C. 1981, apply to this title
7 unless a term is defined differently in this chapter.
8 (b) Terms identified with the references shown below after the definition are limited to those
9 specific sections or chapters of this title:

- 10 (1) Airport influence zone (AIZ).
11 (2) Floodplain regulations (Floodplain).
12 (3) Historic preservation (Historic).
13 (4) Inclusionary housing (Inclusionary Housing).
14 (5) Solar access (Solar).
15 (6) Wetlands Protection (Wetlands).
16 (7) Signs (Signs).

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

19 **A—E**

20 ...

21 *Breezeway* means a roofed at grade open passage connecting a detached ~~single-family~~ dwelling
22 unit to an accessory building. A breezeway is not a space enclosed by walls.

23 ...

24 *Building coverage* means the maximum horizontal area within the outer perimeter of the building
25 walls, dividers, or columns at ground level or above, whichever is the greater area, including,
without limitation, breezeways, courts, and exterior stairways, but excluding:

...

- (3) Up to three hundred square feet of a ~~single-family detached residence~~ dwelling
unit front porch that is adjacent to a street;
(4) Up to one hundred fifty square feet of additional porch area not located in the
front yard for a ~~single-family detached residence~~ dwelling unit;

- 1 (5) One accessory building, no larger than eighty square feet in size and no taller than
2 ten feet in height, associated with a ~~single-family detached residence~~ dwelling
3 unit; and

4 ...
5 *Conveyance zone* means those portions of the floodplain required for the passage or
6 conveyance of the ~~one hundred-year~~ one-hundred-year flood. The conveyance zone is delineated
7 based on an equal encroachment methodology (measured in volume of water), which is applied
8 to the floodplain from the edges of the flood channel to a point where the one-hundred-year flood
9 profile will be raised no more than six inches, after considering a reasonable expectation of
10 blockage at bridges and other obstructions by flood-borne debris. The city may, in its discretion,
11 delineate the conveyance zone on city owned land or right-of-way based on unequal
12 encroachment to minimize delineation on other properties. The conveyance zone is equivalent to
13 a floodway delineation based on a six-inch rise. (Floodplain)

14 *Cooperative housing unit* has the same meaning as set forth in Section 10-1-1,
15 "Definitions," B.R.C. 1981.

16 ...
17 *Expansion of nonconforming use* means any change or modification to a nonconforming
18 use that constitutes:

- 19 (1) An increase in the ~~occupancy~~, floor area, required parking, traffic generation,
20 outdoor storage, or visual, noise, or air pollution;
21 (2) Any change in the operational characteristics which may increase the impacts or
22 create adverse impacts to the surrounding area including, without limitation, the
23 hours of operation, noise, or the number of employees or customers;
24 (3) The addition of bedrooms to a dwelling unit, except a ~~single-family detached~~
25 dwelling unit; or
26 (4) The addition of one or more dwelling units.

27 ...
28 **F—J**

29 *Floor area for detached ~~single-family~~ dwelling units* means the total habitable square
30 footage of all levels measured to the outside surface of the exterior framing, or to the outside
31 surface of the exterior walls if there is no exterior framing or portions thereof, which includes
32 stairways, storage, and mechanical rooms internal to the structure, but excluding garages.
33 (Inclusionary Housing)

34 ...

1 *Housing type* means the particular form which an attached or detached dwelling unit
2 takes, including, without limitation, the following: ~~single family detached houses~~ dwelling units
3 and mobile homes; ~~single family attached dwellings~~ dwelling units such as townhouses and row
4 houses; duplexes, triplexes, and apartments.

5 ...

6 **P—T**

7 ...

8 *Townhouse* means an attached ~~single family~~ dwelling unit located or capable of being
9 located on its own lot, and is separated from adjoining dwelling units by a wall extending from
10 the foundation through the roof which is structurally independent of the corresponding wall of
11 the adjoining unit.

12 *Transitional housing* means a facility providing long-term housing in ~~multi-family unit~~
13 dwelling units with or without common central cooking facilities, where participation in a
14 program of supportive services is required, as a condition of residency, to assist tenants in
15 working towards independence from financial, emotional, or medical conditions that limit their
16 ability to obtain housing for themselves.

17 ...

18 Section 55. Section 10-1-1, "Definitions," B.R.C. 1981, is amended to read as follows:

19 **9-6-1. 10-1-1. - Definitions.**^[2]

20 (a) The following terms used in this title have the following meanings unless the context
21 clearly indicates otherwise:

22 ...

23 ~~*Cooperative* means a housing arrangement in which residents share expenses, ownership
24 or labor.~~

25 ~~*Cooperative housing unit* means a dwelling unit in a private equity not for profit,
permanently affordable cooperative or rental cooperative.~~

...

...
Rooming house means an establishment where, for direct or indirect compensation,
lodging, with or without kitchen facilities or meals, is offered for one month or more for three or
more roomers living independently within rooming units not related to the family of the heads of
the household.

1 *Rooming unit* means a type of housing accommodation that consists of a room or group
2 of rooms for a roomer, arranged primarily for sleeping and study, and that may include a private
3 bath but does not include a sink or any cooking device.

3 ...

4 Section 56. Section 10-2-2, “Adoption of International Property Maintenance Code
5 With Modifications,” B.R.C. 1981, is amended to read as follows:

6 **10-2-2. Adoption of International Property Maintenance Code With Modifications.**

- 7 (a) The 20~~24~~18 edition of the *International Property Maintenance Code* (IPMC) of the
8 International Code Council is hereby adopted by reference as the City of Boulder
9 Property Maintenance Code and has the same force and effect as though fully set forth in
10 this chapter, except as specifically amended for local application by this chapter.
- 11 (b) IPMC Appendix chapters A, "Boarding Standard," B, "Rental Housing Inspections," and
12 C, "Energy Efficiency Requirement - Existing Residential Rental Structures Energy
13 Conservation," are adopted.
- 14 (c) For ease of reference, the following identifies all chapters, sections and appendices of the
15 published and adopted IPMC and includes specific amendments for local application.
16 Chapter, Section, Subsection, or Appendix numbers of provisions not amended appear,
17 followed by the words, "No changes." The amended text of specifically amended
18 provisions appears below. Chapter, Section, Subsection, or Appendix numbers of any
19 provisions not adopted appear, followed by the word, "Deleted."

16 ...

17 **SECTION 106**
18 **VIOLATIONS**

19 **106.1 Violations.**

- 20 (a) General Provisions:
- 21 (1) No person shall erect, construct, enlarge, alter, extend, repair, move, remove,
22 improve, convert, demolish, equip, use, occupy, or maintain any building or
23 structure in the city, or cause or permit the same to be done, except in conformity
24 with all of the provisions of this code and in conformity with the terms and
25 conditions of approval issued under this code, or of any directive of the code
official. No person shall violate a provision of this code, or fail to comply
therewith or with any of the requirements thereof. No person shall fail to comply
with any order issued by the code official under this code.

- 1 (2) In accordance with the provisions of Section 5-2-11, "Prosecution of Multiple
2 Counts for Same Act," B.R.C. 1981, each day during which illegal construction,
3 alteration, maintenance, occupancy, or use continues, constitutes a separate
4 offense remediable through the enforcement provisions of this code.
- 5 (3) The owner, tenant, and occupant of a structure or land and the agents of each of
6 them are jointly and severally liable for any violation of this code with respect to
7 such structure or land.
- 8 (4) The remedies for any violation of any provision of this code or of any permit,
9 certificate, or other approval issued under this code or other City of Boulder code,
10 or of any directive of the code official, may be pursued singly or in combination.
- 11 (5) If any person fails or refuses to pay when due any charge imposed under this
12 section, the code official may, in addition to taking other collection remedies,
13 certify due and unpaid charges to the Boulder County Treasurer for collection as
14 provided by Section 2-2-12, "City Manager May Certify Taxes, Charges, and
15 Assessments to County Treasurer for Collection," B.R.C. 1981.
- 16 (6) If an order under Section 107 is not complied with, the code official may institute
17 any appropriate proceeding at law or in equity to restrain, correct, or abate such
18 violation, or to require the removal or termination of the unlawful occupancy of
19 the structure in violation of the provisions of this code or the order or direction
20 made pursuant thereto. The code official may charge the cost of any action taken
21 to correct a violation, plus up to fifteen percent of such cost for administration, to
22 the property owner. If any property owner fails or refuses to pay when due any
23 charge imposed under this section, the code official may, in addition to taking
24 other collection remedies, certify due any unpaid charges, including interest, to
25 the Boulder County Treasurer, to be levied against the person's property for
collection by the county in the same manner as delinquent general taxes upon
such property are collected, under the procedures described by Section 2-2-12,
"City Manager May Certify Taxes, Charges, and Assessments to County
Treasurer for Collection," B.R.C. 1981.

(b) Administrative Procedures and Remedies:

- (1) If the code official finds that a violation of any provision of this code or of any approval granted under this code exists, the manager, after notice and an opportunity for hearing under the procedures prescribed by Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, may take any one or more of the following actions to remedy the violation:

- 1 (A) Impose a civil penalty according to the following schedule:
- 2 (i) For the first violation of the provision or approval, \$100;
- 3 (ii) For the second violation of the same provision or approval, \$300;
- 4 and
- 5 (iii) For the third violation of the same provision or approval, \$1,000;
- 6 (B) For a violation concerning the use of a residential building under a rental
- 7 license, revoke such license;
- 8 (C) Require the filing of a declaration of use as provided in subsection (e); or
- 9 (D) Issue an order reasonably calculated to ensure compliance with the
- 10 provisions of this code or any approval granted under this code.
- 11 (2) Prior to the hearing, the code official may issue an order that no person shall
- 12 perform any work on any structure or land, except to correct any violation found
- 13 by the code official to exist with respect to such structure or land.
- 14 (3) If notice is given to the code official at least forty-eight hours before the time and
- 15 date set forth in the notice of hearing on any violation that the violation has been
- 16 corrected, the code official will reinspect the structure or land. If the code official
- 17 finds that the violation has been corrected, the manager may cancel the hearing.
- 18 (4) No person shall fail to comply with any action taken by the code official under
- 19 this section.
- 20 (c) Criminal Penalties. Violations of this code are punishable as provided in Section 5-2-4,
- 21 "General Penalties," B.R.C. 1981.
- 22 (1) Occupancy Limitation Violations: Notwithstanding the provision of subsection
- 23 (c), Criminal Penalties, of this section, the following specific sentencing
- 24 considerations shall apply to fines imposed for violations of Section 404,
- 25 Occupancy Limitations, of this code:
- (A) The court shall consider any evidence presented by the defendant that a
- potential fine would be confiscatory. A confiscatory fine is a fine that
- would deprive a normally capitalized owner of the ability to continue
- operating a rental housing business of the sort involved in the case before
- the court. No fine that is confiscatory shall be enforced by the court.
- (B) In imposing a fine in any single case or in any consolidated cases, the
- court may weigh all factors normally and properly considered in
- connection with the imposition of fines, including the seriousness of the
- violation, the past record of the defendant, the economic circumstances of
- the defendant and all mitigating or aggravating factors relevant to the

1 violation or to the defendant. In addition, in determining the amount of
2 any fine, the court may consider:

- 3 (i) The imposition of a fine that would deprive the defendant of any
4 illegal profit collected because of the occurrence of the over-
5 occupancy violation or violations on the rental housing property;
6 (ii) The imposition of a reasonable penalty in addition to any level of
7 fine that is attributable to illegally obtained profit; and
8 (iii) The imposition of such additional fine as is determined by the
9 court to constitute a reasonable amount to be suspended in order to
10 ensure compliance with any terms of probation imposed by the
11 court.

12 (C) No fine imposed in a single case alleging multiple dates of violation, nor
13 any fine in consolidated cases alleging multiple days of violation, shall
14 exceed the maximum fine that might be imposed for fifteen separate
15 violations unless the court finds special aggravating circumstances. Where
16 special aggravating factors are at issue, the following procedures shall
17 apply:

- 18 (i) The defendant shall be entitled to ten days' notice of any special
19 aggravating factors upon which the prosecution intends to rely at
20 the sentencing hearing or about which, based upon evidence
21 previously presented, the court is concerned. If necessary in order
22 to provide such notice, a defendant shall be entitled to a
23 continuance of the sentencing hearing.
24 (ii) A judicial finding of the existence of special aggravating factors
25 shall not mandate that the court impose any particular level of fine
but will, rather, provide the sentencing court with discretion to
determine a fine based upon all the criteria set forth in this
subsection.
(iii) Special aggravating factors, for the purpose of this subsection,
shall require a judicial finding of one or more of the following:
a. The occupancy violations at issue were flagrant and
intentional on the part of the defendant;
b. The defendant, after learning of the over-occupancy
condition, failed to attempt corrective action over a
sustained period of time; or
c. A fine equivalent to the maximum fine permitted for fifteen
separate violations would be inadequate to disgorge the
defendant of illegal profits obtained as a consequence of
the violations or would be inadequate to ensure that the
violation is neither profitable nor revenue neutral for the
offender.

1 (2) Specific Defenses to Alleged Violations:

2 (A) Specific Defenses to Alleged Violations Related to Occupancy of Units
3 for Guest Occupancy: Occupancy limitation violations are premised upon
4 exceeding allowable occupancy limits based upon the number of persons
5 residing in or occupying a dwelling unit pursuant to Section 404,
6 Occupancy Limitations. It is a specific defense as to any alleged occupant
7 that such person spent the night in the unit without remuneration as a
8 social guest for periods of time which never exceeded a cumulative total
9 of fourteen nights in any ninety-day period. Spending the night for the
10 purposes of this subsection means to be on the premises during the hours
11 of 12:00 midnight through 5:00 a.m., or to sleep on the premises for more
12 than five hours at any time in any twenty-four-hour period. If the defense
13 is established as to an alleged occupant, that person shall be considered a
14 social guest and not an occupant for the purposes of proof of the charge of
15 violation. Conversely, any person who spends more than a cumulative
16 total of fourteen nights in any ninety-day period in any dwelling unit is an
17 occupant of that unit for those nights for the purposes of the occupancy
18 limits established in this code.

19 (B) Specific Defenses to Alleged Violations Related to Occupancy of a Unit
20 Which Is a Rental Property: The following shall constitute specific
21 defenses to any alleged violation of Section 404 of this code relating to the
22 occupancy of units:

23 (i) It shall be a specific defense to an alleged violation of Section 404
24 that a defendant is a nonresident landlord or nonresident property
25 manager and:

 a. Prior to the initiation of the prosecution process, the
 defendant undertook and pursued means to avoid over-
 occupancy violations by:

 1. receiving rent payments from only those persons on
 a lease that includes no more than the number of
 tenants associated with the occupancy limitation of
 the unit; and

 2. requiring each tenant to acknowledge, through a
 lease provision or otherwise, the established
 occupancy limitation for the unit; and

 (ii) The defendant had no actual knowledge of the over-occupancy of
 the relevant rental housing property prior to the initiation of the
 prosecution process. However, this specific defense shall not apply

1 when a defendant reasonably should have been aware of the
2 occupancy violation.

3 (iii) For the purposes of this paragraph, the initiation of a prosecution
4 process occurs when any of the following events occurs:

- 5 1. A potential defendant is first contacted by a city
6 investigator in connection with the investigation of an
7 occupancy violation;
8 2. A summons and complaint alleging an occupancy violation
9 is served upon a defendant; or
10 3. A criminal complaint is filed against a defendant alleging
11 an occupancy violation.

12 (iv) For purposes of this paragraph, a nonresident landlord or
13 nonresident property manager means a person who is neither a full-
14 time nor part-time resident of the property that he or she owns or
15 manages.

16 (d) Other Remedies. The city attorney may maintain an action for damages, declaratory
17 relief, specific performance, injunction, or any other appropriate relief in the District
18 Court in and for the County of Boulder for any violation of any provision of this code or
19 any approval granted under this code.

20 (e) Declaration of Use. If the code official determines that a person is using a structure in a
21 way that might mislead a reasonable person to believe that such use is a use by right or
22 otherwise authorized by this title, the code official may require such person to sign under
23 oath a declaration of use that defines the limited nature of the use and to record such
24 declaration in the office of the Boulder County Clerk and Recorder against the title to the
25 land. In addition to all other remedies and actions that the code official is authorized to
use under the Boulder Revised Code or other applicable federal, state, or local laws to
enforce the provisions of this code, the code official is authorized to withhold any
approval affecting such structure or land, including, without limitation, a building permit,
use review, site review, subdivision, floodplain development permit, or wetland permit,
until such time as the person submits a declaration of use that is in a form acceptable to
the code official.

106.2—106.3 Deleted.

106.4 Violation Penalties. Deleted.

106.5 Abatement of Violation. No changes.

1 Section 57. Section 10-3-2, “Rental License Required Before Occupancy and License
2 Exemptions,” B.R.C. 1981, is amended to read as follows:

3 **10-3-2. Rental License Required Before Occupancy and License Exemptions.**

4 (a) No operator shall allow, or offer to allow through advertisement or otherwise, any person
5 to occupy any dwelling, dwelling unit or rooming unit as a tenant or lessee or otherwise
6 for a valuable consideration unless each room or group of rooms constituting the rental
7 property has been issued a valid rental license by the city manager, provided however, an
8 operator may advertise for a rental of thirty days or longer, if the operator has submitted a
complete rental licensing application or is advertising for pre-leasing of new construction.
Any advertisement shall include the rental licensing number once assigned by the city
manager.

9 (b) Buildings, or building areas, described in one or more of the following paragraphs are
10 exempted from the requirement to obtain a rental license from the city manager,
11 provided, however that the exemptions in subsections (b)(1) and (b)(2) below shall not
12 apply to short-term rentals. No operator shall allow any person to occupy any dwelling,
13 dwelling unit or rooming unit exempted pursuant to subsections (b)(1) and (b)(2) below
prior to submitting to the city manager an Affidavit of Exemption for the dwelling,
dwelling unit or rooming unit. No person shall be issued any civil penalty or summons
for failure to submit an Affidavit of Exemption, unless the person has previously been
advised in writing of this requirement.

14 (1) Any dwelling unit occupied by the owner or members of the owner's family who
15 are at least 21 years of age and housing ~~no more than two~~ roomers who are unrelated
16 to the owner or the owner's family. An owner includes an occupant who certifies
that the occupant owns an interest in a corporation, firm, partnership, association,
organization or any other group acting as a unit that owns the rental property.

17 (2) A dwelling unit meeting all of the following conditions:

18 (A) The dwelling unit constitutes the owner's principal residence;

19 (B) The dwelling unit is temporarily rented by the owner for one~~a~~ period of time
20 no greater than twelve consecutive months in any twenty-four-month
period;

21 ...

22 Section 58. Section 10-3-19, “Short-Term Rentals,” B.R.C. 1981, is amended to read as
23 follows:

24 **10-3-19. Short-Term Rentals.**

1 (a) Short-term rentals are prohibited unless the city manager has issued a valid short-term
2 rental license for the property.

3 ...

4 (i) The occupancy of a dwelling unit rented as a short-term rental shall not exceed the
5 occupancy permitted pursuant to ~~Section 9-8-5, "Occupancy of Dwelling Units," B.R.C.~~
6 ~~1981 and Chapter 10-2, "Property Maintenance Code," B.R.C. 1981.; provided, however,~~
7 ~~for the purposes of this section only, the licensee and people related to the licensee shall~~
8 ~~be counted as one person.~~

9 ...

10 (l) No person shall advertise a short-term rental, unless the advertisement includes the valid
11 short-term rental license number once assigned by the city manager~~and the maximum~~
12 ~~unrelated occupancy permitted in the unit.~~

13 ...

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

17 ...

18 Section 59. Section 10-3-20, "Occupancy," B.R.C. 1981, is repealed and reserved:

19 **10-3-20. Occupancy. Reserved.**

20 (a) ~~Every operator of any property with fewer than five dwelling units, shall at the time any~~
21 ~~dwelling unit is shown to any prospective renter, post conspicuously on the inside of the~~
22 ~~main entrance to each dwelling unit a sign listing a maximum occupancy number that~~
23 ~~shall be no greater than the maximum number of unrelated individuals permitted under~~
24 ~~Section 9-8-5, "Occupancy of Dwelling Units," B.R.C. 1981 in a form specified by the~~
25 ~~city manager. Any such sign may include an occupancy limit smaller than that allowed~~
26 ~~by Section 9-8-5.~~

27 (b) ~~Each license shall include a notation of the legal occupancy, including the number of~~
28 ~~unrelated individuals permitted for each dwelling unit covered by the license. Acceptance~~
29 ~~of the license shall constitute a waiver of any claim for a non-conforming occupancy in~~
30 ~~excess of the occupancy stated on the license. The notation on the license shall also not~~
31 ~~provide the basis for an assertion of non-conforming occupancy.~~

32 (c) ~~Each advertisement for rental shall include a statement of the maximum occupancy, such~~
33 ~~statement shall include a number no greater than the number of unrelated individuals~~
34 ~~permissible pursuant to Section 9-8-5, B.R.C. 1981 of the dwelling unit to be rented. Any~~

1 such advertisement may include an occupancy limit smaller than that allowed by Section
2 9-8-5.

3 Section 60. Chapter 10-11, "Cooperative Housing," B.R.C. 1981, is repealed in its
4 entirety and reserved:

5 **Chapter 11 Cooperative Housing** Reserved.

6 **RESERVED.**

7 **~~10-11-1. Legislative Intent.~~**

8 (a) ~~— The City Council intends to facilitate cooperative living arrangements. The Council finds
9 that cooperative living arrangements can provide an affordable alternative for living in
10 Boulder. In addition, cooperative arrangements can provide supportive and fulfilling
11 community for their residents. The City Council seeks to balance the benefits of
12 cooperative living against the impacts from the increased density that comes along with
13 cooperative living. The City Council also is concerned about cooperatives competing in a
14 tight housing market with families seeking single family homes. The City Council
15 intends to monitor the implementation and effects of this ordinance.~~

16 (b) ~~— The City Council intends that all licensed cooperatives be legitimate cooperatives. A
17 legitimate cooperative is a group living arrangement in which the residents have a high
18 degree of social cohesion and teamwork. The residents typically govern through
19 consensus and share responsibilities and resources. New members are typically selected
20 by the community's existing membership, rather than by real estate agents, property
21 managers or non-resident landowners.~~

22 **~~10-11-2. Cooperative License Required Before Occupancy.~~**

23 ~~No person shall occupy, allow, or offer to allow through advertisement or otherwise, any person
24 to occupy any cooperative housing unit unless the cooperative housing unit has been issued a
25 valid cooperative housing license by the city manager. Nothing in this chapter shall relieve any
person of the obligation to comply with any other requirement of this code, including, but not
limited to the requirements of Chapter 10-3 "Rental Licenses," B.R.C. 1981, the requirements of
Chapter 10-2, "Property Maintenance Code," Appendix C "Energy Efficiency Requirements,"
B.R.C. 1981 and the requirements of Section 10-2-2 "Adoption of International Property
Maintenance Code With Modifications," B.R.C. 1981.~~

26 **~~10-11-3. Cooperative Housing Licenses.~~**

27 (a) ~~— License terms shall be as follows:~~

28 (1) ~~— Licenses shall expire four years from issuance or when ownership of the licensed
29 property is transferred.~~

30 (A) ~~— In addition to any other applicable requirements, new licenses and
31 renewals shall require that the licensee submit to the city manager a~~

1 completed current baseline (for a new license) or renewal inspection
2 report, on forms provided by the City. The report shall satisfy the
3 following requirements:

4 (i) ~~The section of the report concerning fuel burning appliances must
5 be executed by a qualified heating maintenance person certifying
6 compliance with those portions of Chapter 10-2, "Property
7 Maintenance Code," B.R.C. 1981, for which the report form
8 requires inspection and certification.~~

9 (ii) ~~The section of the report concerning smoke and carbon monoxide
10 alarms must be executed by the operator certifying that the
11 operator inspected the smoke and carbon monoxide alarms in the
12 licensed property and that they complied with the requirements of
13 Chapter 10-2, "Property Maintenance Code," B.R.C. 1981.~~

14 (iii) ~~The section of the report concerning trash removal must be
15 executed by the operator certifying that the operator has a current
16 valid contract with a commercial trash hauler for removal of
17 accumulated trash from the licensed property in accordance with
18 Subsection 6-3-3(b), B.R.C. 1981.~~

19 (b) ~~Whenever an existing license is renewed, the renewal license shall be effective from the
20 date of expiration of the last license if the applicant submits a complete renewal
21 application by or within ninety days from the expiration date. Licenses not renewed
22 within ninety days will be considered expired, requiring a new baseline inspection report.~~

23 (c) ~~The city manager shall issue no more than ten new cooperative housing licenses in any
24 calendar year. Provided, however, if in any calendar year, after the city manager issued
25 ten licenses, there are fewer than two licenses issued to not for profit permanently
affordable cooperatives, private equity cooperatives or rental cooperatives, the city
manager may issue sufficient additional license so that there are at least two licensees
issued in each category up to a total of no more than fourteen licenses for all categories in
any calendar year.~~

~~If an application for a cooperative housing unit exceeds the limits set forth in this
subparagraph (c), the city manager will place the applicant on a waiting list. Applicants
on the waiting list shall be given priority for consideration of applications in the next
calendar year.~~

26 (d) ~~The boundary of a property on which a cooperative housing unit is located shall not be
27 within five hundred feet from the boundary of the property on which another cooperative
28 housing unit is located, but the city manager may permit two cooperative housing units to
29 be located closer than five hundred feet apart if they are separated by a physical barrier,
30 including, without limitation, an arterial, a collector, a commercial district or a
31 topographic feature that avoids the need for dispersal. The planning department shall
32 maintain a map showing the locations of all cooperative housing units in the city.~~

33 (e) ~~Any Not for Profit Permanently Affordable Cooperative shall be permanently affordable.
34 Affordability shall be measured by individual households. That is, a household consisting~~

1 either of an individual or a family. Rents charged must be affordable to households
2 earning no more than sixty percent of the area median income.

3 (f) ~~— A cooperative license may be issued to any group of natural persons or organization
4 formed under Colorado law. If the applicant is an organization, all owners must be
5 natural persons.~~

6 (g) ~~— No rental cooperative shall be located in a dwelling unit with less than two thousand
7 square feet of habitable space nor in any dwelling unit that within five years prior to the
8 application was modified to have two thousand square feet or more of habitable space.~~

9 (h) ~~— No cooperative shall be located in an agricultural, industrial or public zone. Cooperatives
10 shall be permitted in all other zone districts.~~

11 (i) ~~— No person under twenty-one years of age may own an interest in a cooperative, in real
12 property on which a cooperative is located or in an organization owning real property on
13 which a cooperative is located.~~

14 (j) ~~— Any cooperative in which any person resides in return for valuable compensation shall be
15 subject to the rental licensing provisions included in Section 10-3-2, "Rental License
16 Required Before Occupancy and License Exemptions," B.R.C. 1981. The exceptions to
17 the rental licensing requirements that are set forth in Section 10-3-2(b) shall not apply to
18 any dwelling unit licensed pursuant to this chapter.~~

19 (k) ~~— No dwelling unit licensed pursuant to this chapter shall be licensed as or used as a short-
20 term rental.~~

21 (l) ~~— Any attached accessory dwelling unit or detached accessory dwelling unit to a dwelling
22 unit that is licensed pursuant to this chapter shall be part of the licensed cooperative
23 housing unit and subject to the standards of this chapter. The occupants of the dwelling
24 unit and accessory unit shall all be members of the cooperative. While such units are
25 licensed as a cooperative housing unit under this chapter, neither the principal dwelling
unit nor the accessory dwelling unit shall be required to be owner-occupied as would
otherwise be required under Subparagraph 9-6-3(n)(1)(A)(iv), "Owner-Occupied,"
B.R.C. 1981.~~

18 **10-11-4. License Application Procedure for Cooperative Housing Licenses.**

19 (a) ~~— Only a Legitimate Cooperative may be an applicant for a cooperative housing license. A
20 licensed cooperative may operate only with the written consent of the property owner,
21 unless the cooperative is the owner.~~

22 (b) ~~— Every applicant for cooperative housing license shall submit the following:~~

23 (1) ~~— A written application for a license to the city, on official city forms provided for
24 that purpose including:~~

25 (A) ~~— A housing inspector's certification of baseline inspection dated within
twelve months before the application. Each licensee shall submit evidence
of a renewal inspection every two years. The applicant shall make a copy
of the inspection form available to city staff and residents of inspected
units within fourteen days of a request;~~

1 (B) ~~— A report on the condition and location of all smoke and carbon monoxide~~
2 ~~alarms required by Chapter 10-2, "Property Maintenance Code," B.R.C.~~
3 ~~1981, made and verified by the applicant. Each applicant shall submit a~~
4 ~~verification under this subsection every two years;~~

5 (C) ~~— A trash removal plan meeting the requirements of Section 6-3-3(b), B.R.C.~~
6 ~~1981, made and verified by the applicant;~~

7 (D) ~~— A parking management plan meeting the requirements of Section 10-11-~~
8 ~~11, B.R.C. 1981, made and verified by the applicant;~~

9 (E) ~~— Evidence establishing compliance with Section 10-11-14 "Legitimate~~
10 ~~Cooperatives," B.R.C. 1981. The city manager shall not issue a~~
11 ~~cooperative housing license unless the applicant can be certified as~~
12 ~~meeting the criteria set forth in Section 10-11-14. Each licensee shall~~
13 ~~submit evidence of compliance with Section 10-11-14 every two years;~~
14 ~~and~~

15 (F) ~~— A list of all persons who have any ownership interest in any entity to be~~
16 ~~licensed.~~

17 (2) ~~— All applications shall be submitted at least thirty days prior to occupancy,~~
18 ~~provided, however, that any applicant that can demonstrate operation in the same~~
19 ~~dwelling unit as a legitimate cooperative on December 6, 2016 may submit an~~
20 ~~application while in occupation of that dwelling unit.~~

21 (e) ~~— Pay all license fees prescribed by Section 4-20-69, "Cooperative Housing Fee," B.R.C.~~
22 ~~1981, at the time of submitting the license application.~~

23 (d) ~~— Any licensee shall provide the city manager with a report of any changes in the~~
24 ~~information required by paragraph (b)(1) above within thirty days of such change.~~

25 (e) ~~— The city manager may issue a conditional approval for any group that has met the~~
 ~~requirements of Subsections (a), (b)(1)(E), (b)(1)(F).~~

 (f) ~~— Within thirty days after initial occupancy, the licensee shall provide to the city manager a~~
 ~~certification that the applicant has provided to a resident of each dwelling on the block~~
 ~~face contact information for the applicant and the organization responsible for certifying~~
 ~~the applicant. Provided, however, that no notice shall be required to any dwelling unit~~
 ~~more than six hundred feet from the licensed cooperative.~~

 (g) ~~— A plan showing legal bedroom spaces sufficient to accommodate the number of residents~~
 ~~requested in the license application.~~

21 **10-11-5. License Renewal Procedure for Cooperative Housing Units.**

22 Every licensee of a cooperative housing unit shall follow the procedures in this section when
23 renewing an unexpired license:

24 (a) ~~— Pay all license fees prescribed by Section 4-20-69, "Cooperative Housing Fee," B.R.C.~~
25 ~~1981, before the expiration of the existing license.~~

 (b) ~~— Submit to the city manager, on forms provided by the manager:~~

1 (1) ~~A housing inspector's certification of renewal inspection within twelve months~~
2 ~~before application. The applicant shall make a copy of the inspection form~~
3 ~~available to city staff and residents of inspected units within fourteen days of a~~
4 ~~request;~~

5 (2) ~~A report on the condition and location of all smoke and carbon monoxide alarms~~
6 ~~required by Chapter 10-2, "Property Maintenance Code," B.R.C. 1981, made and~~
7 ~~verified by the operator; and~~

8 (3) ~~A trash removal plan meeting the requirements of Subsection 6-3-3(b), B.R.C.~~
9 ~~1981, made and verified by the operator.~~

10 (4) ~~A parking management plan meeting the requirements of Section 10-11-11,~~
11 ~~B.R.C. 1981, made and verified by the applicant.~~

12 (c) ~~Take all reasonable steps to notify in advance all residents of the property of the date and~~
13 ~~time of the inspection. The operator shall be present and accompany the inspector~~
14 ~~throughout the inspection, unlocking and opening doors as required.~~

15 **10-11-6. Temporary License.**

16 If the inspection shows that there are violations of Chapter 10-2, "Property Maintenance Code,"
17 B.R.C. 1981, in the building, and the applicant cannot correct the deficiencies before the housing
18 is to be occupied (in the case of a new cooperative housing unit) or the existing license expires
19 (in the case of a renewal), the applicant may apply, on forms specified by the city manager, for a
20 temporary license. If the manager finds, based on the number and severity of violations, that such
21 a temporary license would not create or continue an imminent health or safety hazard to the
22 public or the occupants, the manager may issue a temporary license. The manager shall specify
23 the duration of the temporary license, for a period reasonably necessary to make the needed
24 repairs and changes. Upon receipt of an additional certificate of inspection showing correction of
25 the deficiencies, and an additional housing license fee, the manager shall issue the cooperative
26 housing license.

27 **10-11-7. License Appeals.**

28 Any applicant denied a temporary license, or aggrieved by the period of time allowed for
29 correction, may appeal the denial or the time for correction, or both, as provided in Section 10-2-
30 2, Section 111 "Means of Appeal," B.R.C. 1981. As to an appeal of the time reasonably required
31 to correct a violation, the board shall either affirm the city manager's originally prescribed time
32 or grant a longer time to correct the alleged violation.

33 **10-11-8. Time of License Expiration.**

34 Every rental license expires upon the earliest of the following dates:

35 (a) ~~The expiration date on the license unless temporary authority is allowed under Section~~
36 ~~10-11-6, "Temporary License," B.R.C. 1981, of this chapter;~~

37 (b) ~~The effective date of any order or notice to vacate the property issued under any~~
38 ~~provision of law;~~

39 (c) ~~The expiration of the temporary certificate of occupancy for the property if a permanent~~
40 ~~certificate of occupancy has not been issued; or~~

1 (d) — The revocation of the certificate of occupancy for the property.

2 **10-11-9. License Fees.**

3 Applicants for any cooperative housing license, and applicants renewing an existing cooperative
4 housing license, shall pay the license fees prescribed by Section 4-20-69, "Cooperative Housing
5 Fee," B.R.C. 1981, upon submission of any license application.

6 **10-11-10. Availability of License.**

7 No person who holds a cooperative housing license shall fail to make the license available to
8 anyone within seventy-two hours of receiving a request. Posting of a cooperative housing license
9 at the property is not required.

10 **10-11-11. Parking Management Plan Required.**

11 Each applicant for a cooperative housing license shall prepare a parking management plan.
12 Approval of any such plan shall be a condition of issuance of any cooperative housing license.
13 The plan shall limit the number of automobiles to be parked in the public right of way to three. If
14 the cooperative housing unit is located in a Neighborhood EcoPass district, the plan shall include
15 a requirement that each resident who licensed to drive, acquire an EcoPass.

16 **10-11-12. Compatibility with Neighborhoods.**

17 Each cooperative shall at all times maintain compatibility with the neighborhood in which the
18 cooperative is located. The licensee shall take all reasonable steps to reduce excessive parking on
19 the public right of way and noise, trash and weeds on the property. A cooperative may be
20 considered incompatible with the neighborhood if the city manager receives multiple complaints
21 relating to parking on the public right of way, noise, trash or weeds in any twelve-month period.
22 Complaints from a single person shall not be sufficient to cause a property to be incompatible
23 with the neighborhood. Prior to making any determination that a cooperative is not compatible
24 with the neighborhood, the city manager shall provide written notice to the licensee and
25 encourage the licensee to address the complaints with the residents of the neighborhood.

10-11-13. Property Rights for Equity Cooperatives.

Cooperatives that are licensed pursuant to this chapter will have the following status under Title
9, "Land Use Code," B.R.C. 1981:

(a) — Equity Cooperatives. Any licensed not-for-profit permanently affordable cooperative or
private equity cooperative is considered a use of land for the purposes of Chapter 9-6,
"Uses of Land," B.R.C. 1981. If the city changes its land use regulations, such
cooperatives may continue as non-conforming uses under the requirements in Section 9-
10-3, "Changes to Nonstandard Buildings, Structures, and Lots and Nonconforming
Uses," B.R.C. 1981, provided that all of the requirements of the Boulder Revised code
continue to be met.

(b) — Rental Cooperatives. Any licensed rental cooperative is considered a dwelling unit
purposes of Chapter 9-6, "Uses of Land," B.R.C. 1981 and not a use of land. Upon the
abandonment, expiration, or revocation of such license, the property will continue to be
considered a dwelling unit.

10-11-14. Legitimate Cooperatives.

1 (a) — All applicants for cooperative housing licenses shall demonstrate as part of the licensing
2 process that the community to be formed will be a legitimate cooperative. A legitimate
3 cooperative is a group of individuals or an organization formed under Colorado law that,
4 in addition to any other criteria adopted by the city manager, has the following:

5 (1) — a documented governance structure;

6 (2) — a list of the number of adults and dependents;

7 (3) — a dedicated bank account; and

8 (4) — bylaws that provide for the following:

9 (A) — provisions prohibiting unlawful discrimination or harassment;

10 (B) — a provision requiring regular meetings of all members;

11 (C) — a decision-making structure;

12 (D) — provisions for discipline or discharge of members;

13 (E) — provisions for sharing of resources;

14 (F) — provisions for selection of new members; and

15 (G) — provisions for sharing information about the dedicated bank account.

16 (b) — The city manager shall designate one or more Expert Cooperative Housing Organizations
17 with ninety days after final adoption of this ordinance. An applicant shall seek training
18 and certification by an Expert Cooperative Housing Organization. An applicant shall
19 submit evidence of such training and certification as part of an application for a
20 cooperative housing license.

21 **10-11-15. City Manager May Order Premises Vacated.**

22 (a) — Whenever the city manager determines that any cooperative housing unit is in violation
23 of this chapter or of Chapter 10-2, "Property Maintenance Code," B.R.C. 1981, and has
24 caused a summons and complaint requiring the licensee to appear in municipal court to
25 answer the charge of violation to issue, and the summons cannot be served upon the
licensee despite reasonable efforts to do so, or, having been served, the licensee has failed
to appear in the municipal court to answer the charges or at any other stage in the
proceedings, or, having been convicted or entered a plea of guilty or no contest, the
licensee has failed to satisfy the judgment of the court or any condition of a deferred
judgment, then the city manager may, after thirty days' notice and an opportunity for a
hearing to the residents and the licensee, require that the premises be vacated and not be
reoccupied until all of the requirements of the Property Maintenance Code and the
cooperative housing code have been satisfied and a cooperative housing license is in
effect. No person shall occupy any cooperative housing unit after receiving actual or
constructive notice that the premises have been vacated under this section.

(b) — Any notice required by this section to be given to a licensee is sufficient if sent by first
class or certified mail to the address of the last known owner of the property as shown on
the records of the Boulder County Assessor as of the date of mailing. Any notice to a
resident required by this section is sufficient if sent by first class or certified mail to or
delivered to any occupant at the address of the premises and directed to "All Residents."

1 ~~(e) — The remedy provided in this section is cumulative and is in addition to any other action~~
2 ~~the city manager is authorized to take.~~

3 **~~10-11-16. Administrative Remedy.~~**

4 ~~(a) — If the city manager finds that a violation of any provision of this chapter or Chapter 10-2,~~
5 ~~"Property Maintenance Code," B.R.C. 1981, exists, the manager, after notice to the~~
6 ~~operator and an opportunity for hearing under the procedures prescribed by Chapter 1-3,~~
7 ~~"Quasi-Judicial Hearings," B.R.C. 1981, may take any one or more of the following~~
8 ~~actions to remedy the violation:~~

9 ~~(1) — Impose a civil penalty according to the following schedule:~~

10 ~~(A) — For the first violation of the provision, \$150;~~

11 ~~(B) — For the second violation of the same provision, \$300; and~~

12 ~~(C) — For the third violation of the same provision, \$1,000;~~

13 ~~(2) — Revoke the cooperative housing license; and~~

14 ~~(3) — Issue any order reasonably calculated to ensure compliance with this chapter and~~
15 ~~Chapter 10-2, "Property Maintenance Code," B.R.C. 1981.~~

16 ~~(b) — If notice is given to the city manager by the licensee at least forty-eight hours before the~~
17 ~~time and date set forth in the notice of hearing on any violation, other than a violation of~~
18 ~~Section 10-11-12 "Compatibility with Neighborhoods," B.R.C. 1981, that the violation~~
19 ~~has been corrected, the manager will re-inspect the cooperative housing unit. If the~~
20 ~~manager finds that the violation has been corrected, the manager may cancel the hearing.~~

21 ~~(c) — If notice is given to the city manager by the licensee at least forty-eight hours before the~~
22 ~~time and date set forth in the notice of hearing on any violation of Section 10-11-12~~
23 ~~"Compatibility with Neighborhoods," B.R.C. 1981, that the licensee has scheduled a~~
24 ~~community mediation with concerned neighbors, the manager may continue the hearing~~
25 ~~until the manager receives a report regarding the conclusion of the mediation. If after~~
26 ~~reviewing a community mediation report, if the city manager is satisfied that the~~
27 ~~cooperative housing unit meets the requirements of Section 10-11-12 "Compatibility with~~
28 ~~Neighborhoods," B.R.C. 1981, the city manager may dismiss any pending complaint.~~

29 ~~(d) — The city manager's authority under this section is in addition to any other authority the~~
30 ~~manager has to enforce this chapter, and election of one remedy by the manager shall not~~
31 ~~preclude resorting to any other remedy as well, provided however, the city manager shall~~
32 ~~not seek criminal penalties for any violation of this chapter.~~

33 ~~(e) — The city manager may, in addition to taking other collection remedies, certify due and~~
34 ~~unpaid charges to the Boulder County Treasurer for collection as provided by Section 2-~~
35 ~~2-12, "City Manager May Certify Taxes, Charges and Assessments to County Treasurer~~
36 ~~for Collection," B.R.C. 1981.~~

37 ~~(f) — To cover the costs of investigative inspections, the city manager will assess operators a~~
38 ~~\$250 fee per inspection, where the city manager performs an investigative inspection to~~
39 ~~ascertain compliance with or violations of this chapter.~~

1 **10-11-17. Authority to Issue Rules.**

2 The city manager may adopt reasonable rules to implement this chapter.

3 **10-11-18. Reporting.**

4 The city manager shall prepare an annual report to the city council regarding the implementation
5 and enforcement of this chapter. Council will consider the impacts of this ordinance and make
6 changes as necessary.

7 Section 61. Section 10-12-2, "Definition," B.R.C. 1981, is amended to read as follows:

8 The following words used in this chapter have the following meanings unless the context clearly
9 indicates otherwise:

10 ...

11 *Mobile home* means a transportable, ~~single-family~~detached dwelling unit, suitable for year-
12 round occupancy that contains the same water supply, waste disposal and electrical conveniences
13 as immobile housing, that has no foundation other than wheels or removable jacks for
14 conveyance on highways, and that may be transported to a site as one or more modules, but the
15 term does not include "travel trailers," "campers," "camper buses," or "motor homes," or modular
16 homes designed to be placed on a foundation.

17 ...

18 Section 62. Section 11-1-13, "When Connections With Water Mains Are Required,"

19 B.R.C. 1981, is amended to read as follows:

20 **11-1-13. When Connections With Water Mains Are Required.**

21 (a) All property located in the city or annexed to the city that is open to the public or used for
22 commercial or industrial purposes or uses (other than ~~single-family~~detached dwelling
23 units-residential) and that requires a potable water supply for human consumption shall
24 be connected with the water utility of the city. The owner of the property, the owner's
25 agent or other person having charge of such property or receiving the rent for it, or a
tenant of the property shall pay all applicable fees and charges when the city manager
notifies such person that connection is required. The manager shall serve such notice
upon the owner of such property by registered mail to the last address of the owner on the
records of the Boulder County Assessor and upon the person in possession of such
property by mail to the property address. Connection to the water utility is immediately
required only where there exists a city water main abutting or adjacent to any portion of
the boundaries of the property upon which there is an existing structure or a proposed
structure requiring the use of potable water. A private water supply may be used for
irrigation on property connected to the water utility, but no person in possession of such
property shall allow the water from the private supply to be used for human consumption

1 or to be cross-connected with a line containing water from the water utility. Nothing in
2 this subsection shall be deemed to require water connection by properties in the portion
3 of Moore's ~~Subdivision~~ Subdivision, annexed on July 11, ~~1978~~ 1978, or specifically
4 exempted by any written agreement with the city.

5 ...

6 Section 63. Section 11-1-15, "Out of City Water Service," B.R.C. 1981, is amended to
7 read as follows:

8 **11-1-15. Out of City Water Service.**

9 (a) Out of city water service permits are intended for properties that may be eligible for
10 annexation in the near future but are not presently eligible. The purpose of this section is
11 to outline the requirements precedent to the receipt of out of city utility services. A
12 person desiring to make connection to out of city services will be required to make such
13 land dedication and pay such fees as would be anticipated from a similarly situated
14 property that would annex into the city.

15 (b) Any person outside of the city limits desiring to make a connection or repair to or
16 disconnect from the water utility or to use water therefrom shall apply to the city manager
17 for a revocable out of city water permit, which may be issued after approval of the city
18 manager if the manager finds that the application meets the following conditions:

19 ...

20 (5) The service is to be extended to a structure, which contains a legal use, that
21 existed on the effective date of this chapter or to a platted ~~single-family lot~~ with a
22 detached dwelling unit existing on the effective date of this chapter;

23 ...

24 Section 64. Section 11-2-10, "Out of City Sewer Service," B.R.C. 1981, is amended to
25 read as follows:

26 **11-2-10. Out of City Sewer Service.**

27 (a) Out of city sewer service permits are intended for properties that may be eligible for
28 annexation in the near future but are not presently eligible. The purpose of this section is
29 to outline the requirements precedent to the receipt of out of city utility services. A
30 person desiring to make connection to out of city services will be required to make such
31 land dedication and pay such fees as would be anticipated from a similarly situated
32 property that would annex into the City.

1 (b) Any person outside of the city limits desiring to make a connection to the wastewater
2 utility shall apply to the city manager for a revocable out of city wastewater permit,
3 which may be issued after approval of the city manager if the manager finds that the
4 application meets the following conditions:

5 ...

6 (5) The service is to be extended to a structure, which contains a legal use, that
7 existed on the effective date of this chapter or to a ~~platted single-family lot~~ with a
8 detached dwelling unit existing on the effective date of this chapter;

9 ...

10 Section 65. Section 11-5-5, “Discharges to the Stormwater Utility System,” B.R.C. 1981,
11 is amended to read as follows:

12 **11-5-5. Discharges to the Stormwater Utility System.**

13 (a) Illicit Discharges Prohibited: No user or other person shall discharge any illicit discharge
14 into or upon the stormwater utility system, any public highway, street, sidewalk, alley,
15 land, public place, stream, ditch or other watercourse or into any cesspool, storm or
16 private sewer or natural water outlet, except as specifically provided in this chapter and in
17 accordance with the MS4 permit.

18 ...

19 (d) Exemptions: The following discharges are exempt from the requirements established by
20 this chapter:

21 (1) Landscape irrigation and lawn watering associated with ~~single-family detached~~
22 dwelling units or ~~duplexes development~~,

23 ...

24 Section 66. Section 12-1-2, “Discrimination in Housing Prohibited,” B.R.C. 1981, is
25 amended to read as follows:

26 **9-6-1. 12-1-2. - Discrimination in Housing Prohibited.^[4]**

27 ...

28 (b) The provisions of subsection (a) of this section do not apply to prohibit:

1 ...

2 (4) Compliance with any provisions of ~~Section 9-8-5, "Occupancy of Dwelling~~
3 ~~Units," or Chapter 10-2, "Property Maintenance Code," B.R.C. 1981, concerning~~
4 permitted occupancy of dwelling units.

4 ...

5 Section 67. If any section, paragraph, clause, or provision of this ordinance shall for any
6 reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining
7 provisions of this ordinance.

8 Section 68. This ordinance is necessary to protect the public health, safety, and welfare
9 of the residents of the city and covers matters of local concern.

10 Section 69. The city council deems it appropriate that this ordinance be published by title
11 only and orders that copies of this ordinance be made available in the office of the city clerk for
12 public inspection and acquisition.

13
14 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
15 TITLE ONLY this 6th day of February 2025.

16 _____
17 Aaron Brockett,
18 Mayor

18 Attest:

19
20 _____
21 Elesha Johnson,
22 City Clerk
23
24
25

1 READ ON SECOND READING, PASSED AND ADOPTED this 6th day of March 2025.

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Aaron Brockett,
Mayor

Attest:

Elesha Johnson,
City Clerk