



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: October 29, 2019

AGENDA TITLE

Third reading and consideration of a motion to adopt Ordinance 8359 amending Title 9, “Land Use Code” regarding establishing a new community benefits program related to building height regulations for certain areas of the city and modifying the expiration clause related to the height regulations established in Ordinance 8028 (and extended by Ordinances 8172 and 8252).

PRESENTER/S

Jane S. Brautigam, City Manager
Chris Meschuk, Asst. City Manager / Interim Director of Planning
Charles Ferro, Development Review Manager
Jim Robertson, Comprehensive Planning Manager
Karl Guiler, Senior Planner / Code Amendment Specialist
Jay Sugnet, Senior Housing Planner
Phil Kleisler, Senior Planner

EXECUTIVE SUMMARY

The purpose of this item is for City Council to consider third reading and adoption of the Phase I Community Benefit Ordinance 8359 (**Attachment A**) amending the Land Use Code to establish a new community benefits program. The proposed ordinance would amend Title 9, “Land Use Code” by modifying the building height regulations for certain areas of the City to require enhanced community benefit and modifying the expiration clause related to the height regulations established in Ordinance 8028 (and extended by Ordinances 8172 and 8252).

The City Council public hearing and first reading of Ordinance 8359 occurred on Oct. 1st. City Council unanimously passed the ordinance on first reading, but requested the following additional options be explored prior to the second reading:

1. Determine whether the identified “Nursing Homes and Assisted Living” use could be limited to non-profit projects or those that ensure a level of affordability to residents;
2. Explore whether Appendix J (the map in the land use code that determines where height modifications may be requested) should be modified to:
 - a. Include additional areas within the Boulder Valley Regional Center (BVRC) [i.e., the mixed-use, retail-oriented areas along 28th Street mostly zoned Business Regional – 1] for potential height modifications beyond just the Twenty Ninth Street site; and
 - b. Include areas zoned for High Density Residential (i.e., RH zones.), and
3. Provide more information on the Community Benefit Phase II work plan and timeline supporting the proposed sunset date of May 31, 2021 for the Appendix J map.

The [first reading memo](#) contains the background of the project, an overview of the proposed ordinance, results of the economic analysis and summary of community feedback. The Oct. 15 [second reading memo](#) contains the changes requested by council during the first reading. Council made the following revisions during second reading:

- Nursing Homes and Assisted Living facilities - Council agreed that further analysis is necessary prior to including “Nursing Homes and Assisted Living facilities” as a community benefit; that work will be addressed in Phase II of the project. Until such time, the method of calculating the additional commercial linkage fee rate for “bonus” beds (e.g., beds within bonus floor area or bonus floors of a building above the height limit) is included in the attached ordinance.
- Potential changes to Appendix J - The council opted to include the Alpine-Balsam Area Plan building height map area and the Residential High – 3 (RH-3) zones in the map of areas where height modifications may be considered. The council opted to not include additional Business Regional – 1 (BR-1) zone at this time.

City Council voted unanimously (7-0) to approve the ordinance with the minor revisions included as an attachment to the second reading packet and including the changes to the Appendix J map as discussed above. These changes are reflected in the attached ordinance found in **Attachment A**. Given the requested changes, the ordinance requires adoption on third reading.

STAFF RECOMMENDATION

Suggested Motion Language:

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

1. Motion to adopt Ordinance 8359 amending Title 9, “Land Use Code” regarding establishing a new community benefits program related to building height regulations for certain areas of the city and modifying the expiration clause related to the height regulations established in Ordinance 8028 (and extended by Ordinances 8172 and 8252).

ATTACHMENTS

A: Ordinance 8359, as amended at second reading

ORDINANCE 8359

AN ORDINANCE AMENDING TITLE 9, "LAND USE CODE," B.R.C. 1981, REGARDING ESTABLISHING A NEW COMMUNITY BENEFIT PROGRAM RELATED TO BUILDING HEIGHT REGULATIONS FOR CERTAIN AREAS OF THE CITY AND MODIFYING THE EXPIRATION CLAUSE RELATED TO THE HEIGHT REGULATIONS ESTABLISHED IN ORDINANCE 8028 (AND ORDINANCES 8172 AND 8252); AND SETTING FORTH RELATED DETAILS.

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

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

9-2-14. - Site Review.

- (a) Purpose: The purpose of site review is to allow flexibility and encourage innovation in land use development. Review criteria are established to promote the most appropriate use of land, improve the character and quality of new development, to facilitate the adequate and economical provision of streets and utilities, to preserve the natural and scenic features of open space, to assure consistency with the purposes and policies of the Boulder Valley Comprehensive Plan and other adopted plans of the community, to ensure compatibility with existing structures and established districts, to assure that the height of new buildings is in general proportion to the height of existing, approved, and known to be planned or projected buildings in the immediate area, to assure that the project incorporates, through site design, elements which provide for the safety and convenience of the pedestrian, to assure that the project is designed in an environmentally sensitive manner, ~~and~~ to assure that the building is of a bulk appropriate to the area and the amenities provided and of a scale appropriate to pedestrians, and to set requirements for additional height, density, and intensity that provide additional benefits to the community beyond the underlying zoning.
- (b) Scope: The following development review thresholds apply to any development that is eligible or that otherwise may be required to complete the site review process:
 - (1) Development Review Thresholds:
 - (A) Minimum Thresholds for Voluntary Site Review: No person may apply for a site review application unless the project exceeds the thresholds for the "minimum size for site review" category set forth in Table 2-2 of this section or a height modification pursuant to Subparagraph (E) below on any lot is requested.
 - (B) Minimum Thresholds for Required Site Review: No person may apply for a subdivision or a building permit for a project that exceeds the thresholds for the

"concept plan and site review required" category set forth in table 2-2 of this section until a site review has been completed.

- (C) Common Ownership: All contiguous lots or parcels under common ownership or control, not subject to a planned development, planned residential development, planned unit development, or site review approval, shall be considered as one property for the purposes of determining whether the maximum site review thresholds below apply. If such lots or parcels cross zoning district boundaries, the lesser threshold of the zoning districts shall apply to all of the lots or parcels.
- (D) Previously Approved Developments: Previously approved valid planned unit developments that do not otherwise meet the minimum site review thresholds may be modified or amended consistent with the provisions of this title pursuant to Subsections (k) and (l) of this section.
- (E) Height Modifications: A development which exceeds the permitted height requirements of Section 9-7-5, "Building Height," or 9-7-6, "Building Height, Conditional," B.R.C. 1981, is required to complete a site review and is not subject to the minimum threshold requirements. No standard other than height may be modified under the site review unless the project is also eligible for site review. A development that exceeds the permitted height requirements of Sections 9-7-5 or 9-7-6, B.R.C. 1981, must meet any one of the following circumstances in addition to the site review criteria:
 - (i) The height modification is to allow a roof that has a pitch of 2:12 or greater in a building with three or fewer stories and the proposed height does not exceed the maximum height permitted in the zoning district by more than ten feet.
 - (ii) The building is in the Industrial General, Industrial Service, or Industrial Manufacturing Zoning District and has two or fewer stories or the height is necessary for a manufacturing, testing, or other industrial process or equipment.
 - (iii) The height modification is to allow up to the greater of two stories or the maximum number of stories permitted in Section 9-7-1, B.R.C. 1981, in a building and the height modification is necessary because of the topography of the site.
 - (iv) At least forty percent of the floor area of the building is used for units that meet the requirements for permanently affordable units in Chapter 9-13, "Inclusionary Housing," B.R.C. 1981.
 - (v) The height modification is to allow an emergency operations antenna.
 - (vi) The building or use is located in an area designated in Appendix J, "Areas Where Height Modifications May Be Considered," and meets the requirements of Paragraph 9-2-14(h)(2)(K), "Additional Criteria for Height Bonuses and Land Use Intensity Modifications for Properties Designated Within Appendix J," B.R.C. 1981.¹

¹ The limitation of this subparagraph (vi) to a building or use located in an area designated in Appendix J expires on May 31, 2021 per Ordinance 8359.

TABLE 2-2: SITE REVIEW THRESHOLD TABLE

<i>Zoning District Abbreviation</i>	<i>Use</i>	<i>Form</i>	<i>Intensity</i>	<i>Minimum Size for Site Review</i>	<i>Concept Plan and Site Review Required</i>	<i>Former Zoning District Abbreviation</i>
A	A	a	1	2 acres	-	(A-E)
BC-1	B3	f	15	1 acre	3 acres or 50,000 square feet of floor area	(CB-D)
BC-2	B3	f	19	1 acre	2 acres or 25,000 square feet of floor area or any site in BVRC	(CB-E)
BCS	B4	m	28	1 acre	3 acres or 50,000 square feet of floor area	(CS-E)
BMS	B2	o	17	0	3 acres or 50,000 square feet of floor area	(BMS-X)
BR-1	B5	f	23	0	3 acres or 50,000 square feet of floor area	(RB-E)
BR-2	B5	f	16	0	3 acres or 50,000 square feet of floor area	(RB-D)
BT-1	B1	f	15	1 acre	2 acres or 30,000 square feet of floor area	(TB-D)
BT-2	B1	e	21	0	2 acres or 30,000 square feet of floor area	(TB-E)
DT-1	D3	p	25	0	1 acre or 50,000 square feet of floor area	(RB3-X/E)
DT-2	D3	p	26	0	1 acre or 50,000 square feet of floor area	(RB2-X)
DT-3	D3	p	27	0	1 acre or 50,000 square feet of floor area	(RB2-E)

DT-4	D1	q	27	0	1 acre or 50,000 square feet of floor area	(RB1-E)
DT-5	D2	p	27	0	1 acre or 50,000 square feet of floor area	(RB1-X)
IG	I2	f	22	2 acres	5 acres or 100,000 square feet of floor area	(IG-E/D)
IM	I3	f	20	2 acres	5 acres or 100,000 square feet of floor area	(IM-E/D)
IMS	I4	r	18	0	3 acres or 50,000 square feet of floor area	(IMS-X)
IS-1	I1	f	11	2 acres	5 acres or 100,000 square feet of floor area	(IS-E)
IS-2	I1	f	10	2 acres	5 acres or 100,000 square feet of floor area	(IS-D)
MH	MH	s	-	5 or more units are permitted on the property	-	(MH-E)
MU-1	M2	i	18	0	1 acre or 20 dwelling units	(MU-D)
MU-2	M3	r	18	0	3 acres or 50,000 square feet of floor area	(RMS-X)
MU-3	M1	n	24	5 or more units are permitted on the property	1 acre or 20 dwelling units or 20,000 square feet of nonresidential floor area	(MU-X)
MU-4	M4	o	24.5	0	3 acres or 50,000 square feet of floor area	-
P	P	c	5	2 acres	5 acres or 100,000 square feet of floor area	(P-E)

RE	R1	b	3	5 or more units are permitted on the property	-	(ER-E)
RH-1	R6	j	12	0	2 acres or 20 dwelling units	(HR-X)
RH-2	R6	c	12.5	0	2 acres or 20 dwelling units	(HZ-E)
RH-3	R7	l	14	5 or more units are permitted on the property	2 acres or 20 dwelling units	(HR1-X)
RH-4	R6	h	15	5 or more units are permitted on the property	2 acres or 20 dwelling units	(HR-D)
RH-5	R6	c	19	5 or more units are permitted on the property	2 acres or 20 dwelling units	(HR-E)
RH-6	R8	j	17.5	5 or more units are permitted on the property	3 acres or 20 dwelling units	-
RH-7	R7	i	14	5 or more units are permitted on the property	2 acres or 20 dwelling units	-
RL-1	R1	d	4	5 or more units are permitted on the property	3 acres or 18 dwelling units	(LR-E)
RL-2	R2	g	6	5 or more units are permitted on the property	3 acres or 18 dwelling units	(LR-D)
RM-1	R3	g	9	5 or more units are permitted on the property	2 acres or 20 dwelling units	(MR-D)

1	RM-2	R2	d	13	5 or more units are permitted on the property	2 acres or 20 dwelling units	(MR-E)
2							
3	RM-3	R3	j	13	5 or more units are permitted on the property	2 acres or 20 dwelling units	(MR-X)
4							
5	RMX-1	R4	d	7	5 or more units are permitted on the property	2 acres or 20 dwelling units	(MXR-E)
6							
7	RMX-2	R5	k	8	0	2 acres or 20 dwelling units	(MXR-D)
8							
9	RR-1	R1	a	2	5 or more units are permitted on the property	-	(RR-E)
10							
11	RR-2	R1	b	2	5 or more units are permitted on the property	-	(RR1-E)
12							
13							
14							

(2) Poles Above the Permitted Height: The city manager will follow the following procedures for the review, recommendation, call-up and effective date for the approval of poles above the permitted height.

(A) Light Poles at Government-Owned Facilities: The city manager will determine whether or not to approve an application for light poles at government-owned recreation facilities between thirty-five and fifty-five feet in height, subject to call-up by the planning board pursuant to the procedures set forth in Subsection 9-2-7(b), B.R.C. 1981.

(B) Poles Over Fifty-Five Feet in Height: The city manager will determine whether or not to approve all applications for poles over fifty-five feet in height, subject to call-up by the city council pursuant to the procedures set forth in Subsection 9-2-7(c), B.R.C. 1981.

(3) Exceptions: The following developments that exceed the minimum site review thresholds set forth in this section shall not be required to complete a site review:

(A) Minor modifications and amendments under this section to approved development review applications;

(B) Building permits for additions to existing structures that do not exceed a

1 cumulative total, over the life of the building, of twenty-five percent of the size of
 2 the building on which the addition is proposed and that do not alter the basic intent
 of an approved development;

3 (C) Subdivisions solely for the purpose of amalgamating lots or parcels of land;

4 (D) Subdivisions solely for the purpose of conveying property to the City;

5 (E) City of Boulder public projects that are otherwise required to complete a public
 review process; and

6 (F) Projects located in areas defined by Appendix L, "Form-Based Code Areas," that
 are required to complete form-based code review pursuant to Section 9-2-16,
 "Form-Based Code Review," B.R.C 1981.

7
 8 (c) Modifications to Development Standards: The following development standards of B.R.C.
 1981 may be modified under the site review process set forth in this section:

9 (1) 9-7-1, "Schedule of Form and Bulk Standards" and standards referred to in that section
 except that the standards referred to as "FAR Requirements" may not be modified
 10 under this paragraph and are subject to Section 9-8-2, B.R.C. 1981, and the maximum
 height or conditional height for principal buildings or uses may be modified only,
 11 ~~except as permitted in in Paragraph 9-2-14(b)(1)(E), B.R.C. 1981 paragraph (e)(2)~~
 below.

12 ~~(2) The maximum height or conditional height for principal buildings or uses may be~~
 13 ~~modified in any of the following circumstances:~~

14 ~~(A) For building or uses designated in Appendix J "Areas Where Height~~
~~Modifications May Be Considered."~~

15 ~~(B) Industrial General, Industrial Service, and Industrial Manufacturing districts if~~
~~the building has two or fewer stories or if the height is necessary for a~~
 16 ~~manufacturing, testing or other industrial process or equipment.~~

17 ~~(C) In all zoning districts, if the height modification is to allow up to the greater of~~
~~two stories or the maximum number of stories permitted in Section 9-7-1 in a~~
 18 ~~building and the height modification is necessary because of the topography of~~
~~the site.~~

19 ~~(D) In all zoning districts if at least forty percent of the floor area of the building is~~
~~used for units that meet the requirements for permanently affordable units in~~
 20 ~~Chapter 9-13, "Inclusionary Housing," B.R.C. 1981.~~

21 ~~(E) For emergency operations antenna.¹~~

22 ~~(32)~~ 9-8-1, "Schedule of Intensity Standards," table 8-1, minimum lot area (in square feet
 unless otherwise noted) and the floor area ratio standards to permit the averaging of
 23 floor area across multiple building sites within a zoning district.

24 ~~(43)~~ 9-8-4, "Housing Types and Density Bonuses Within an RMX-2 Zoning District."

25 ~~(54)~~ 9-9-2(b), "Maximum Permitted Buildings on a Lot."

¹~~The provisions adopted pursuant to Ordinance No. 8028 expire on May 31, 2020.~~

- (65) 9-9-2(e), "Entire Use Located on One Lot."
- (76) 9-9-3(a), "Window Requirements for Buildings."
- (87) 9-9-4, "Public Improvements" and Subsection 9-12-12(a), "Standards for Lots and Public Improvements," "Conditions Required," only to the extent that certain development criteria for alternative street standards are noted in the City of Boulder Design and Construction Standards.
- (98) 9-9-5, "Site Access Control."
- (109) 9-9-6, "Parking Standards."
- (140) 9-9-7, "Sight Triangles."
- (121) 9-9-9, "Off-Street Loading Standards."
- (132) 9-7-13, "Mobile Home Park Form and Bulk Standards."
- (143) 9-9-12, "Landscaping and Screening Standards."
- (154) 9-9-11(c), "Open Space Standards for Buildings Over Twenty-Five Feet in Height."
- (165) 9-9-11, "Useable Open Space," to the extent permitted in Paragraphs 9-9-11(f)(2), (f)(4), (f)(6) and (i)(7), B.R.C. 1981.
- (176) 9-9-13, "Streetscape Design Standards."
- (187) Land use intensity modifications pursuant to Paragraphs 9-2-14(h)(2)(I) and (h)(2)(J), ~~land use intensity modifications for nonresidential buildings.~~
- (198) 9-9-14, "Parking Lot Landscaping Standards."
- (2019) 9-9-15, "Fences and Walls."
- (240) 9-9-17, "Solar Access."
- (221) Standards for wall signs on parapet walls to the extent permitted by Paragraph 9-9-21(d)(14)(D), B.R.C. 1981.
- (232) 9-10-3(c)(4)(B), "No Reduction in Affordable Units."
- (243) 10-12-7, "Accessory Structures."
- (254) 10-12-13, "Mobile Home Park Environmental Standards."
- (265) 10-12-14, "Nonresidential Uses in Mobile Home Parks."
- (276) 10-12-18, "Windbreaks."
- (287) 10-12-19, "Mobile Home Park Streets and Walkways."
- (298) 10-12-23, "Permanent Buildings."

(d) Application Requirements: An application for approval of a site plan may be filed by any person having a demonstrable property interest in land to be included in a site review on a form provided by the city manager that includes, without limitation:

- (1) All materials and information required by Subsection 9-2-6(a), B.R.C. 1981;

- (2) A site plan with a north arrow showing the major details of the proposed development, prepared on a scale of not less than one inch equals one hundred feet providing sufficient detail to evaluate the features of the development required by this section. The site plan shall contain, insofar as applicable, the information set forth in this subsection;
- (3) The existing topographic character of the land, showing contours at two-foot intervals;
- (4) The site and location of proposed uses with dimensions indicating the distance from lot lines;
- (5) The location and size of all existing and proposed buildings, structures and improvements, and the general location of adjacent streets, structures and properties;
- (6) The maximum height of all buildings and building elevations showing exterior colors and materials;
- (7) The density and type of uses;
- (8) The internal traffic and circulation systems, off-street parking areas, service areas, loading areas and major points of access to public rights-of-way;
- (9) The location, height and size of proposed signs, lighting and advertising devices;
- (10) The areas that are to be conveyed, dedicated or reserved as parks, recreation areas, playgrounds, outlots or open space and as sites for schools and other public buildings;
- (11) The areas that are to be conveyed, dedicated or reserved for streets, alley and utility easements;
- (12) The areas subject to the one hundred-year flood as defined in chapter 9-16, "Definitions," B.R.C. 1981, and any area of the site that is within a designated space conveyance zone or high hazard zone;
- (13) A general landscaping plan at the time of initial submission to be followed by a detailed landscaping plan prior to or as a condition of approval, showing the spacing, sizes, specific types of landscaping materials, quantities of all plants and whether the plant is coniferous or deciduous. All trees with a diameter of six inches and over measured fifty-four inches above the ground on the property or in the landscape setback of any property adjacent to the development shall be shown on the landscaping plan.
- (14) A shadow analysis depicting shadows on December 21, as described in the solar analysis instructions provided by the city manager, and depicting shadows calculated pursuant to Subsection 9-9-17(d), B.R.C. 1981, for those buildings that affect adjacent properties;
- (15) A written statement containing the following information:
 - (A) A statement of the current ownership and a legal description of all of the land included in the project;
 - (B) An explanation of the objectives to be achieved by the project, including, without limitation, building descriptions, sketches or elevations that may be required to describe the objectives;

(C) A development schedule indicating the approximate date when construction of the project or phases of the project can be expected to begin and be completed; and

(D) Copies of any special agreements, conveyances, restrictions or covenants that will govern the use, maintenance and continued protection of the goals of the project and any related parks, recreation areas, playgrounds, outlots or open space;

(16) Materials required by the City of Boulder Design and Construction Standards, including, without limitation, a traffic study, master utility plan, utility report and storm water report and plan for any application that proposes to construct or have an impact on public improvements; and

(17) Plans for preservation of natural features existing on the site or plans for mitigation of adverse impacts to natural features existing on the site from the proposed development and anticipated uses. Natural features include, without limitation, healthy long-lived trees, significant plant communities, ground and surface water, wetlands, riparian areas, drainage areas and habitat for species on the federal Endangered Species List, "Species of Special Concern in Boulder County" designated by Boulder County, or prairie dogs (*Cynomys ludovicianus*) which is a species of local concern.

(18) A tree inventory that includes the location, size, species and general health of all trees with a diameter of six inches and over measured fifty-four inches above the ground on the property or in the landscape setback of any property adjacent to the development. The inventory shall indicate which trees will be adversely affected and what if any steps will be taken to mitigate the impact on the trees. The tree inventory shall be prepared by a certified arborist that has a valid contractor license pursuant to chapter 4-28, "Tree Contractor License," B.R.C.

(e) Additional Application Requirements for Height Modification: The following additional application requirements apply if the development proposal includes a request for the modification of the permitted height:

(1) Preliminary building plans including sketches and elevations illustrating the proposed building or pole and indicating how the height was calculated;

(2) ~~For developments in all Downtown (DT) districts, a~~ A model, at a scale of no less than one inch equals thirty feet, of the proposed building and all buildings and property within one hundred feet of the proposed project or a digital model that clearly depicts a similar context;

(3) ~~For developments in all Downtown (DT) districts, an~~ An illustration of the proposed building shown from street level demonstrating the pedestrian view, including, without limitation, a perspective, computer model or photographic montage;

(4) A shadow analysis, as described in the solar analysis instructions provided by the city manager, that shows the shadow cast by a thirty-five-foot building located at the required setback and the shadow cast by the proposed building;

(5) A list of the height of each principal building located or known to be proposed or

approved within one hundred feet of the proposed project;

(6) A written statement and drawings which describe the way in which the proposal accommodates pedestrians, including, without limitation, uses proposed for the ground level, percent of transparent material at the ground level, and signage and graphics; ~~and~~

(7) A detailed plan showing the useable open space and a written statement of how it serves the public interest; and

(8) Plans and a written statement demonstrating that the development meets the requirements for a height bonus specified in Subparagraph 9-2-14(h)(2)(K), B.R.C. 1981.

(f) Public Notification: After receiving an application the city manager shall provide public notification pursuant to Section 9-4-3, "Public Notice Requirements," B.R.C. 1981, shall be provided.

(g) Review and Recommendation: The city manager will review and decide an application for a site review in accordance with the provisions of Section 9-2-6, "Development Review Application," B.R.C. 1981, except for an application involving the following, which the city manager will refer with a recommendation to the planning board for its action:

(1) A reduction in off-street parking of more than fifty percent subject to compliance with the standards of Subsection 9-9-6(f), B.R.C. 1981.

(2) A reduction of the open space or lot area requirements allowed by subparagraph (h)(2)(I) of this section.

(3) An application for any principal or accessory building above the permitted height for principal buildings set forth in Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981.

(4) An increase in density in the RH-1, RH-2 and RH-3 districts consistent with Section 9-8-3, "Density in the RH-1, RH-2, RH-3 and RH-7 Districts," B.R.C. 1981.

(h) Criteria for Review: No site review application shall be approved unless the approving agency finds that:

(1) Boulder Valley Comprehensive Plan:

(A) The proposed site plan is consistent with the land use map and the service area map and, on balance, the policies of the Boulder Valley Comprehensive Plan.

(B) The proposed development shall not exceed the maximum density associated with the Boulder Valley Comprehensive Plan residential land use designation. Additionally, if the density of existing residential development within a three-hundred-foot area surrounding the site is at or exceeds the density permitted in the Boulder Valley Comprehensive Plan, then the maximum density permitted on the site shall not exceed the lesser of:

(i) The density permitted in the Boulder Valley Comprehensive Plan, or

(ii) The maximum number of units that could be placed on the site without waiving or varying any of the requirements of Chapter 9-8, "Intensity Standards," B.R.C. 1981, except as permitted for building sites with

1 permanently affordable units meeting the requirements of Paragraph 9-10-
2 3(c)(4), "Nonconforming Permanently Affordable Units," B.R.C. 1981.

3 (C) The proposed development's success in meeting the broad range of BVCP policies
4 considers the economic feasibility of implementation techniques required to meet
5 other site review criteria.

6 (2) Site Design: Projects should preserve and enhance the community's unique sense of
7 place through creative design that respects historic character, relationship to the natural
8 environment, multi-modal transportation connectivity and its physical setting. Projects
9 should utilize site design techniques which are consistent with the purpose of site
10 review in Subsection (a) of this section and enhance the quality of the project. In
11 determining whether this subsection is met, the approving agency will consider the
12 following factors:

13 (A) Open Space: Open space, including, without limitation, parks, recreation areas
14 and playgrounds:

- 15 (i) Useable open space is arranged to be accessible and functional and
16 incorporates quality landscaping, a mixture of sun and shade and places to
17 gather;
- 18 (ii) Private open space is provided for each detached residential unit;
- 19 (iii) The project provides for the preservation of or mitigation of adverse
20 impacts to natural features, including, without limitation, healthy long-lived
21 trees, significant plant communities, ground and surface water, wetlands,
22 riparian areas, drainage areas and species on the federal Endangered
23 Species List, "Species of Special Concern in Boulder County" designated
24 by Boulder County, or prairie dogs (*Cynomys ludovicianus*), which is a
25 species of local concern, and their habitat;
- (iv) The open space provides a relief to the density, both within the project and
from surrounding development;
- (v) Open space designed for active recreational purposes is of a size that it will
be functionally useable and located in a safe and convenient proximity to
the uses to which it is meant to serve;
- (vi) The open space provides a buffer to protect sensitive environmental
features and natural areas; and
- (vii) If possible, open space is linked to an area- or city-wide system.

(B) Open Space in Mixed Use Developments (Developments That Contain a Mix of
Residential and Nonresidential Uses):

- (i) The open space provides for a balance of private and shared areas for the
residential uses and common open space that is available for use by both
the residential and nonresidential uses that will meet the needs of the
anticipated residents, occupants, tenants and visitors of the property; and
- (ii) The open space provides active areas and passive areas that will meet the

needs of the anticipated residents, occupants, tenants and visitors of the property and are compatible with the surrounding area or an adopted plan for the area.

(C) Landscaping:

- (i) The project provides for aesthetic enhancement and a variety of plant and hard surface materials, and the selection of materials provides for a variety of colors and contrasts and the preservation or use of local native vegetation where appropriate;
- (ii) Landscape design attempts to avoid, minimize or mitigate impacts on and off site to important native species, healthy, long lived trees, plant communities of special concern, threatened and endangered species and habitat by integrating the existing natural environment into the project;
- (iii) The project provides significant amounts of plant material sized in excess of the landscaping requirements of Sections 9-9-12, "Landscaping and Screening Standards," and 9-9-13, "Streetscape Design Standards," B.R.C. 1981; and
- (iv) The setbacks, yards and useable open space along public rights of way are landscaped to provide attractive streetscapes, to enhance architectural features and to contribute to the development of an attractive site plan.

(D) Circulation: Circulation, including, without limitation, the transportation system that serves the property, whether public or private and whether constructed by the developer or not:

- (i) High speeds are discouraged or a physical separation between streets and the project is provided;
- (ii) Potential conflicts with vehicles are minimized;
- (iii) Safe and convenient connections are provided that support multi-modal mobility through and between properties, accessible to the public within the project and between the project and the existing and proposed transportation systems, including, without limitation, streets, bikeways, pedestrian ways and trails;
- (iv) Alternatives to the automobile are promoted by incorporating site design techniques, land use patterns and supporting infrastructure that supports and encourages walking, biking and other alternatives to the single-occupant vehicle;
- (v) Where practical and beneficial, a significant shift away from single-occupant vehicle use to alternate modes is promoted through the use of travel demand management techniques;
- (vi) On-site facilities for external linkage are provided with other modes of transportation, where applicable;

- (vii) The amount of land devoted to the street system is minimized; and
- (viii) The project is designed for the types of traffic expected, including, without limitation, automobiles, bicycles and pedestrians, and provides safety, separation from living areas and control of noise and exhaust.

(E) Parking:

- (i) The project incorporates into the design of parking areas measures to provide safety, convenience and separation of pedestrian movements from vehicular movements;
- (ii) The design of parking areas makes efficient use of the land and uses the minimum amount of land necessary to meet the parking needs of the project;
- (iii) Parking areas and lighting are designed to reduce the visual impact on the project, adjacent properties and adjacent streets; and
- (iv) Parking areas utilize landscaping materials to provide shade in excess of the requirements in Subsection 9-9-6(d), and Section 9-9-14, "Parking Lot Landscaping Standards," B.R.C. 1981.

(F) Building Design, Livability and Relationship to the Existing or Proposed Surrounding Area:

- (i) The building height, mass, scale, orientation, architecture and configuration are compatible with the existing character of the area or the character established by adopted design guidelines or plans for the area;
- (ii) The height of buildings is in general proportion to the height of existing buildings and the proposed or projected heights of approved buildings or approved plans or design guidelines for the immediate area;
- (iii) The orientation of buildings minimizes shadows on and blocking of views from adjacent properties;
- (iv) If the character of the area is identifiable, the project is made compatible by the appropriate use of color, materials, landscaping, signs and lighting;
- (v) Projects are designed to a human scale and promote a safe and vibrant pedestrian experience through the location of building frontages along public streets, plazas, sidewalks and paths, and through the use of building elements, design details and landscape materials that include, without limitation, the location of entrances and windows, and the creation of transparency and activity at the pedestrian level;
- (vi) To the extent practical, the project provides public amenities and planned public facilities;
- (vii) For residential projects, the project assists the community in producing a variety of housing types, such as multifamily, townhouses and detached single family units, as well as mixed lot sizes, number of bedrooms and

- sizes of units;
 - (viii) For residential projects, noise is minimized between units, between buildings and from either on-site or off-site external sources through spacing, landscaping and building materials;
 - (ix) A lighting plan is provided which augments security, energy conservation, safety and aesthetics;
 - (x) The project incorporates the natural environment into the design and avoids, minimizes or mitigates impacts to natural systems;
 - (xi) Buildings minimize or mitigate energy use; support on-site renewable energy generation and/or energy management systems; construction wastes are minimized; the project mitigates urban heat island effects; and the project reasonably mitigates or minimizes water use and impacts on water quality;
 - (xii) Exteriors of buildings present a sense of permanence through the use of authentic materials such as stone, brick, wood, metal or similar products and building material detailing;
 - (xiii) Cut and fill are minimized on the site, the design of buildings conforms to the natural contours of the land, and the site design minimizes erosion, slope instability, landslide, mudflow or subsidence, and minimizes the potential threat to property caused by geological hazards;
 - (xiv) In the urbanizing areas along the Boulder Valley Comprehensive Plan boundaries between Area II and Area III, the building and site design provide for a well-defined urban edge; and
 - (xv) In the urbanizing areas located on the major streets shown on the map in Appendix A to this title near the Boulder Valley Comprehensive Plan boundaries between Area II and Area III, the buildings and site design establish a sense of entry and arrival to the City by creating a defined urban edge and a transition between rural and urban areas.
- (G) Solar Siting and Construction: For the purpose of ensuring the maximum potential for utilization of solar energy in the City, all applicants for residential site reviews shall place streets, lots, open spaces and buildings so as to maximize the potential for the use of solar energy in accordance with the following solar siting criteria:
- (i) Placement of Open Space and Streets: Open space areas are located wherever practical to protect buildings from shading by other buildings within the development or from buildings on adjacent properties. Topography and other natural features and constraints may justify deviations from this criterion.
 - (ii) Lot Layout and Building Siting: Lots are oriented and buildings are sited in a way which maximizes the solar potential of each principal building. Lots are designed to facilitate siting a structure which is unshaded by other

nearby structures. Wherever practical, buildings are sited close to the north lot line to increase yard space to the south for better owner control of shading.

(iii) Building Form: The shapes of buildings are designed to maximize utilization of solar energy. Buildings shall meet the solar access protection and solar siting requirements of Section 9-9-17, "Solar Access," B.R.C. 1981.

(iv) Landscaping: The shading effects of proposed landscaping on adjacent buildings are minimized.

(H) Additional Criteria for Poles Above the Permitted Height: No site review application for a pole above the permitted height will be approved unless the approving agency finds all of the following:

(i) The light pole is required for nighttime recreation activities which are compatible with the surrounding neighborhood, light or traffic signal pole is required for safety or the electrical utility pole is required to serve the needs of the City; and

(ii) The pole is at the minimum height appropriate to accomplish the purposes for which the pole was erected and is designed and constructed so as to minimize light and electromagnetic pollution.

(I) Land Use Intensity Modifications:

(i) ~~Potential~~ General Land Use Intensity Modifications:

a. The density of a project may be increased in the BR-1 district through a reduction of the lot area requirement or in the Downtown (DT), BR-2 or MU-3 districts through a reduction in the open space requirements.

b. The open space requirements in all Downtown (DT) districts may be reduced by up to one hundred percent.

c. The open space per lot requirements for the total amount of open space required on the lot in the BR-2 district may be reduced by up to fifty percent.

d. Land use intensity may be increased up to twenty-five percent in the BR-1 district through a reduction of the lot area requirement.

(ii) Additional Criteria for General Land Use Intensity Modifications: A land use intensity increase pursuant to subparagraph (i) above will be permitted up to the maximum amount set forth below if the approving agency finds that the criteria in paragraph (h)(1) through Subparagraph (h)(2)(H) of this section and following criteria have been met:

a. Open Space Needs Met: The needs of the project's occupants and visitors for high quality and functional useable open space can be met

adequately;

- b. Character of Project and Area: The open space reduction does not adversely affect the character of the development or the character of the surrounding area; and
- c. Open Space and Lot Area Reductions: The specific percentage reduction in open space or lot area requested by the applicant is justified by any one or combination of the following site design features not to exceed the maximum reduction set forth above:
 - 1. Close proximity to a public mall or park for which the development is specially assessed or to which the project contributes funding of capital improvements beyond that required by the parks and recreation component of the development excise tax set forth in chapter 3-8, "Development Excise Tax," B.R.C. 1981: maximum one hundred percent reduction in all Downtown (DT) districts and ten percent in the BR-1 district;
 - 2. Architectural treatment that results in reducing the apparent bulk and mass of the structure or structures and site planning which increases the openness of the site: maximum five percent reduction;
 - 3. A common park, recreation or playground area functionally useable and accessible by the development's occupants for active recreational purposes and sized for the number of inhabitants of the development, maximum five percent reduction; or developed facilities within the project designed to meet the active recreational needs of the occupants: maximum five percent reduction;
 - 4. Permanent dedication of the development to use by a unique residential population whose needs for conventional open space are reduced: maximum five percent reduction;
 - 5. The reduction in open space is part of a development with a mix of residential and nonresidential uses within a BR-2 zoning district that, due to the ratio of residential to nonresidential uses and because of the size, type and mix of dwelling units, the need for open space is reduced: maximum fifteen percent reduction; and
 - 6. The reduction in open space is part of a development with a mix of residential and nonresidential uses within a BR-2 zoning district that provides high quality urban design elements that will meet the needs of anticipated residents, occupants, tenants and visitors of the property or will accommodate public gatherings, important activities or events in the life of the community and its people, that may include, without limitation, recreational or

cultural amenities, intimate spaces that foster social interaction, street furniture, landscaping and hard surface treatments for the open space: maximum twenty-five percent reduction.

(iii) Land Use Intensity and Density Modifications with Height Bonus: In an area designated in Appendix J, "Areas Where Height Modifications May Be Considered," and as part of a height bonus approved under Subparagraph 9-2-14(h)(2)(K), the density and floor area of a building may be increased above the maximum allowed in Chapter 9-8, "Intensity Standards," B.R.C. 1981, as follows, provided the building meets the requirements for a height bonus under Subparagraph 9-2-14(h)(2)(K), B.R.C. 1981:

- a. In the BMS zoning district outside a general improvement district providing off-street parking, and in the IMS, IS, and MU-1 zoning districts, the base floor area ratio (FAR) in Table 8-2, Section 9-8-2, "Floor Area Ratio Requirements," B.R.C. 1981, may be increased by up to 0.5 FAR.
- b. In the BR-1 zoning district, the allowed number of dwelling units per acre in Table 8-1, Section 9-8-1, "Schedule of Intensity Standards," B.R.C. 1981, may be increased by up to fifty percent.

(J) Additional Criteria for Floor Area Ratio Increase for Buildings in the BR-1 District:

- (i) Process: For buildings in the BR-1 district, the floor area ratio ("FAR") permitted under Table 8-2, Section 9-8-2, "Floor Area Ratio Requirements," B.R.C. 1981, may be increased by the city manager under the criteria set forth in this subparagraph.
- (ii) Maximum FAR Increase: The maximum FAR increase allowed for buildings thirty-five feet and over in height in the BR-1 district shall be from 2:1 to 4:1.
- (iii) Criteria for the BR-1 District: The FAR may be increased in the BR-1 district to the extent allowed in subparagraph (h)(2)(J)(ii) of this section if the approving agency finds that the following criteria are met:
 - a. Site and building design provide open space exceeding the required useable open space by at least ten percent: an increase in FAR not to exceed 0.25:1.
 - b. Site and building design provide private outdoor space for each office unit equal to at least ten percent of the lot area for buildings twenty-five feet and under and at least twenty percent of the lot area for buildings above twenty-five feet: an increase in FAR not to exceed 0.25:1.
 - c. Site and building design provide a street front facade and an alley

facade at a pedestrian scale, including, without limitation, features such as awnings and windows, well-defined building entrances and other building details: an increase in FAR not to exceed 0.25:1.

- d. For a building containing residential and nonresidential uses in which neither use comprises less than twenty-five percent of the total square footage: an increase in FAR not to exceed 1:1.
- e. The unused portion of the allowed FAR of historic buildings designated as landmarks under chapter 9-11, "Historic Preservation," B.R.C. 1981, may be transferred to other sites in the same zoning district. However, the increase in FAR of a proposed building to which FAR is transferred under this subparagraph may not exceed an increase of 0.5:1.
- f. For a building which provides one full level of parking below grade, an increase in FAR not to exceed 0.5:1 may be granted.

(K) Additional Criteria for Height Bonuses and Land Use Intensity Modifications for Properties Designated within Appendix J: A building proposed with a fourth or fifth story or addition, thereto that exceeds the permitted height requirements of Sections 9-7-5, "Building Height," or 9-7-6, "Building Height, Conditional," B.R.C. 1981, together with any additional floor area or residential density approved under subparagraph (h)(2)(I)(iii), may be approved if it meets the requirements of this subparagraph (h)(2)(K). For purposes of this subparagraph (h)(2)(K), bonus floor area shall mean floor area that is on a fourth or fifth story and is partially or fully above the permitted height and any floor area that is the result of an increase in density or floor area described in subparagraph (h)(2)(I)(iii). The approving authority may approve a height up to fifty-five feet if the building is in an area designated in Appendix J, "Areas Where Height Modifications May Be Considered," and one of the following criteria is met:

(i) Residential Developments: If the development is residential, it will exceed the requirements of Subparagraph 9-13-3(a)(1)(A), B.R.C. 1981, as follows:

- a. For bonus units, the inclusionary housing requirement shall be increased as follows: Instead of twenty-five percent, at least thirty-six percent of the total number of bonus units shall be permanently affordable units. If the building is a for-sale development, at least fifty percent of all the permanently affordable units required for the building shall be built in the building; this fifty percent on-site requirement may not be satisfied through an alternative means of compliance. A minimum of one bonus unit shall be assumed to be provided in the building if any bonus floor area is in the building.

1 b. For purposes of this subparagraph (i), bonus units shall mean a
2 number of units that is determined as follows: A percentage of all
3 the units in the building that equals in number the percentage of
4 bonus floor area in the building. For example, if twenty percent of
5 the building's floor area is bonus floor area and the building has
6 one hundred units, twenty percent of those one hundred units are
7 bonus units, resulting in twenty bonus units.

8 b.c. The city manager shall review the development's compliance with
9 this increased inclusionary housing requirement pursuant to the
10 standards and review procedures of 9-13, "Inclusionary Housing,"
11 B.R.C. 1981.

12 (ii) Non-Residential Developments. For non-residential developments, the
13 applicant shall pay the affordable housing portion of the capital facility
14 impact fee in Section 4-20-62, B.R.C. 1981, at a rate of 1.43 above the
15 base requirement for the bonus floor area. In a building with several types
16 of non-residential uses, the bonus floor area of each type identified under
17 Section 4-20-62, B.R.C. 1981, shall be a percentage of the bonus floor
18 area that equals in number the percentage of the total floor area in the
19 building of such use type. For nonresidential uses with a fee that is
20 calculated per room or bed under Section 4-20-62, B.R.C. 1981, the
21 increased rate for the affordable housing portion of the fee shall apply to
22 bonus rooms or bonus beds as applicable under that section; the number of
23 bonus rooms or bonus beds shall be determined consistent with the
24 methodology for bonus units in subparagraph (i)b. above.

25 (iii) Mixed Use. If the development is a residential mixed-use development,
 the requirements of subsection (i) and (ii) above shall apply to the bonus
 floor area according to the percentage of the total building floor area of
 each use.

(iv) Alternative Community Benefit. Pursuant to the standard in this
 subparagraph (iv), the approving authority may approve an alternative
 method of compliance to provide additional benefits to the community and
 qualify for a height bonus together with any additional floor area or
 density that may be approved under subparagraph (h)(2)(I). The
 approving authority will approve the alternative method of compliance if
 the applicant proposes the alternative method of compliance and
 demonstrates that the proposed method will improve the facilities or
 services delivered by the city, including without limitation any police, fire,
 library, human services, parks and recreation, or other municipal office, or
 land or service, and is of a value that is equivalent to or greater than the
 benefits required by this subparagraph (h)(2)(K).

1 (~~LK~~) Additional Criteria for Parking Reductions: The off-street parking requirements of
2 Section 9-9-6, "Parking Standards," B.R.C. 1981, may be modified as follows:

- 3 (i) Process: The city manager may grant a parking reduction not to exceed
4 fifty percent of the required parking. The planning board or city council
5 may grant a reduction exceeding fifty percent.
- 6 (ii) Criteria: Upon submission of documentation by the applicant of how the
7 project meets the following criteria, the approving agency may approve
8 proposed modifications to the parking requirements of Section 9-9-6,
9 "Parking Standards," B.R.C. 1981 (see tables 9-1, 9-2, 9-3 and 9-4), if it
10 finds that:
- 11 a. For residential uses, the probable number of motor vehicles to be
12 owned by occupants of and visitors to dwellings in the project will be
13 adequately accommodated;
- 14 b. The parking needs of any nonresidential uses will be adequately
15 accommodated through on-street parking or off-street parking;
- 16 c. A mix of residential with either office or retail uses is proposed, and
17 the parking needs of all uses will be accommodated through shared
18 parking;
- 19 d. If joint use of common parking areas is proposed, varying time
20 periods of use will accommodate proposed parking needs; and
- 21 e. If the number of off-street parking spaces is reduced because of the
22 nature of the occupancy, the applicant provides assurances that the
23 nature of the occupancy will not change.

24 (~~ML~~) Additional Criteria for Off-Site Parking: The parking required under Section 9-9-
25 6, "Parking Standards," B.R.C. 1981, may be located on a separate lot if the
following conditions are met:

- 26 (i) The lots are held in common ownership;
- 27 (ii) The separate lot is in the same zoning district and located within three
28 hundred feet of the lot that it serves; and
- 29 (iii) The property used for off-site parking under this subparagraph continues
30 under common ownership or control.
- 31 (i) Planning Board Call-Up: The planning board may call-up any final site review decision by
32 the city manager pursuant to Section 9-4-4, "Appeals, Call-Ups and Public Hearings," B.R.C.
33 1981.
- 34 (j) Subdivisions: An approved site plan may be subdivided under chapter 9-12, "Subdivision,"
35 B.R.C. 1981. The approved site plan may substitute for a preliminary plat if it meets the
36 requirements of Section 9-12-6, "Application Requirements for a Preliminary Plat," B.R.C.
37 1981. As part of subdivision review, the city manager will consider conditions of the site
38 plan approval and assure that they will be met within the future subdivision.

(k) Minor Modifications to Approved Site Plans: Changes to the site plan, building plans, and landscaping plans may be approved by the city manager without an amendment to the site plan if such changes are minor. All minor modifications shall be noted, signed, and dated on the approved site plan. For proposed minor modifications of site review projects that are partially or totally developed, the applicant shall provide notice to any owners of property within the development that might be affected, as determined by the manager. In determining whether a proposed change is a minor modification, the following standards shall apply:

- (1) Setbacks on the perimeter of a development cannot be varied by a minor modification to less than the minimum setbacks permitted by the underlying zoning district;
- (2) The floor area of the development, including principal and accessory buildings, may be expanded by the cumulative total of no more than the greater of ten percent or two hundred square feet or, in the case of a building that exceeds the permitted height, no more than five percent, except that the portion of any building over thirty-five feet in height may not be expanded under the provisions of this paragraph;
- (3) Commercial and industrial building envelopes may be moved or expanded by no more than the greater of ten feet, or ten percent of the length of the building, measured along the building's axis in the direction that the building is being moved;
- (4) Principal and accessory buildings not within an approved building envelope may be expanded or moved by no more than ten feet in any direction within the development in residential districts and lots abutting residential districts. The resulting setbacks shall not be less than the minimum allowed setback of the underlying zone;
- (5) Dwelling unit type may not be changed;
- (6) The portion of any building over the permitted height under Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, may not be expanded under the provisions of this subsection;
- (7) No increase may be granted to an open space reduction or to a parking reduction in excess of that allowed in Subsection 9-9-6(f), B.R.C. 1981; and
- (8) No change may alter the basic intent of the site plan approval.

(l) Minor Amendments to Approved Site Plans:

- (1) Standards: Changes to approved building location or additions to existing buildings, which exceed the limits of a minor modification, may be considered through the minor amendment process if the following standards are met:
 - (A) In a residential zone as set forth in Section 9-5-2, "Zoning Districts," B.R.C. 1981, all approved dwelling units within the development phase have been completed;
 - (B) In residential zones, dwelling unit type is not changed;
 - (C) The required open space per dwelling unit requirement of the zone is met on the lot of the detached dwelling unit to be expanded; and
 - (D) The total open space per dwelling unit in the development is not reduced by

more than ten percent of that required for the zone; or

- (E) If the residential open space provided within the development or an approved phase of a development cannot be determined, the detached dwelling unit is not expanded by more than ten percent and there is no variation to the required setbacks for that lot;
- (F) For a building in a nonresidential use module, the building coverage is not increased by more than twenty percent, the addition does not cause a reduction in required open space, and any additional required parking that is provided is substantially accommodated within the existing parking arrangement;
- (G) The portion of any building over the permitted height under Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, is not increased;
- (H) The proposed minor amendment does not require public infrastructure improvements or other off-site improvements.

(2) Amendments to the Site Review Approval Process: Applications for minor amendment shall be approved according to the procedures prescribed by this section for site review approval, except:

- (A) If an applicant requests approval of a minor amendment to an approved site review, the city manager will determine which properties within the development would be affected by the proposed change. The manager will provide notice pursuant to Subsection 9-4-3(b), B.R.C. 1981, of the proposed change to all property owners so determined to be affected, and to all property owners within a radius of 600 feet of the subject property.
- (B) Only the owners of the subject property shall be required to sign the application.
- (C) The minor amendment shall be found to comply with the review criteria of Subparagraphs (h)(2)(A), (h)(2)(C), and (h)(2)(F) of this section.
- (D) The minor amendment is found to be substantially consistent with the intent of the original approval, including conditions of approval, the intended design character, and site arrangement of the development, and specific limitations on additions or total size of the building which were required to keep the building in general proportion to others in the surrounding area or minimize visual impacts.
- (E) The city manager may amend, waive, or create a development agreement.

(m) Amendments to Approved Site Plans:

- (1) No proposal to modify, structurally enlarge, or expand any approved site review, other than a minor modification or minor amendment, will be approved unless the site plan is amended and approved in accordance with the procedures prescribed by this section for approval of a site review, except for the notice and consent provisions of this subsection.
- (2) No proposal to modify, structurally enlarge, or expand that portion of a building over the permitted height will be approved unless the site plan is amended and approved in

1 accordance with the procedures prescribed by this section for approval of a building
2 above the permitted height.

3 (3) If an applicant requests approval of an amendment to an approved site plan, the city
4 manager shall provide public notice pursuant to Section 9-4-3, "Public Notice
5 Requirements," B.R.C. 1981.

6 (4) The owners of all property for which an amendment is requested shall sign the
7 application.

8 Section 2. This ordinance amends Ordinances 8028, 8172 and 8252 and deletes the
9 expiration clause of the height standards established in Section 5 of Ordinance 8028, extended by
10 Section 2 of Ordinance 8172, and again extended by Section 2 of Ordinance 8252.

11 Section 3. The council repeals Appendix J to Title 9, "Areas Where Height Modifications
12 May be Considered," and hereby adopts Exhibit A to this ordinance, titled "Appendix J, Areas
13 Where Height Modifications May be Considered," as an amendment to Title 9, "Land Use Code,"
14 B.R.C. 1981.

15 Section 4. The council orders that the limitation of Subparagraph 9-2-14(b)(1)(E)(vi), B.R.C.
16 1981, to a building or use located in Appendix, J "Areas Where Height Modifications May be
17 Considered," shall expire on May 31, 2021, at which time the standards established in
18 Subparagraph 9-2-14(b)(1)(E)(vi), B.R.C. 1981, shall be applicable to uses and buildings located
19 anywhere within the City of Boulder. The council intends that the limitation to areas within
20 Appendix J expire or that the standards of this ordinance be amended or replaced with subsequent
21 legislation after further study of appropriate building height and building height standards in the
22 city.

23 Section 5. For the limited purposes of adopting this ordinance, city council suspends the
24 provisions of Subsection 9-1-5(a), "Amendments and Effect of Pending Amendments," B.R.C.
25 1981.

1 Section 6. The city council finds that this ordinance is necessary to protect the public health,
2 safety, and welfare of the residents of the city and covers matters of local concern.

3 Section 7. The council deems it appropriate that this ordinance be published by title only and
4 order that copies of this ordinance be made available in the office of the city clerk for public
5 inspection and acquisition.

6 Section 8. This ordinance shall become effective on January 1, 2020. It shall be applied to
7 site review applications submitted after the effective date. Site reviews applied for before the
8 effective date shall be considered under the standards in effect at the time of application.
9

10 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
11
12 TITLE ONLY this 1st day of October 2019.

13
14
15 _____
Suzanne Jones,
Mayor

16 Attest:

17
18 _____
City Clerk,
Lynnette Beck
19
20
21
22
23
24
25

1 READ ON SECOND READING, AMENDED AND PASSED this 15th day of October
2 2019.

3 _____
4 Suzanne Jones,
5 Mayor

6 Attest:

7 _____
8 City Clerk,
9 Lynnette Beck

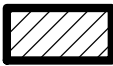
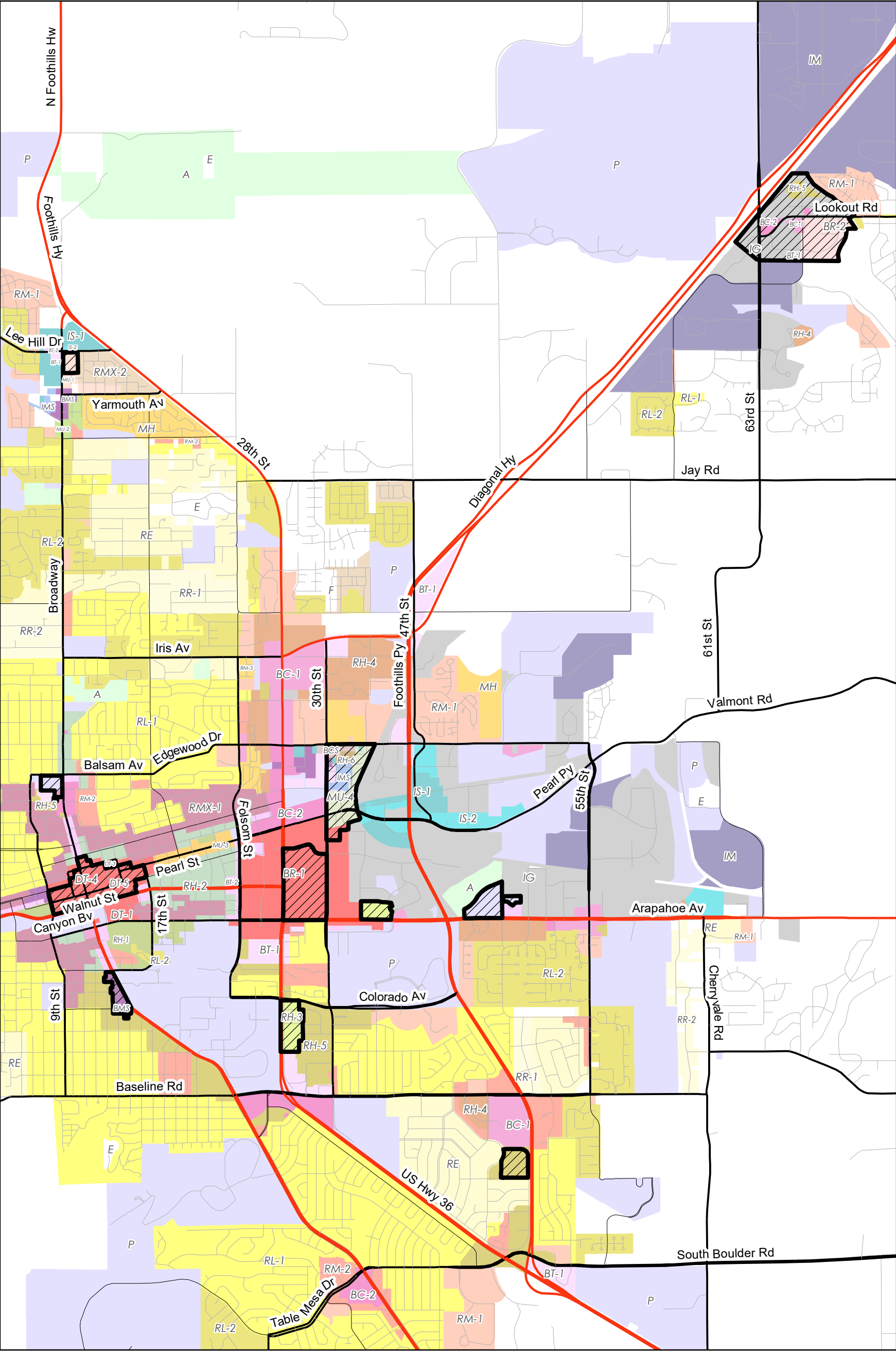
10 READ ON THIRD READING, ADOPTED this 29th day of October 2019.

11 _____
12 Suzanne Jones,
13 Mayor

14 Attest:

15 _____
16 City Clerk,
17 Lynnette Beck
18
19
20
21
22
23
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Appendix J to Title 9 – Areas Where Height Modifications May be Considered



Areas Where Height Modifications May be Considered

