

TITLE 2

GOVERNMENT ORGANIZATION

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TITLE 2
Government Organization

Chapter 1
City Council¹

2-1-1. Legislative Intent.

The purpose of this chapter is to prescribe the procedures and duties of the city council of the City of Boulder, Colorado.

2-1-2. Council Meetings.

The city council shall hold two regular meetings in each calendar month of each year on the first and third Tuesdays of each month commencing at 6:00 p.m. in the city council chambers of the Municipal Building, 1777 Broadway, Boulder, Colorado. The council may by motion prescribe a different date, time or place for such regular meetings in any month, but no such motion affects the time, date or place for regularly scheduled meetings of the council in any other month.

Ordinance No. 4816 (1984)

2-1-3. Council Member Benefits.

(a) The city council finds:

- (1) Section 7 of the charter of the City of Boulder, as amended in 1990, sets the level of "compensation" for council members as "\$100.00 per meeting at which a quorum of city council is present, not to exceed four meetings per calendar month, plus an annual escalation"; and
- (2) Ambiguities inherent in the term, "compensation," require that the council interpret Section 7 in a way that will best fulfill the charter's intent and purposes.

(b) Under charter 7:

- (1) "Compensation" includes only salaries, as that was the focus of charter section 7 before 1990 and the focus of analysis preceding the 1990 amendment; and
- (2) Council members must receive at least the salary specified in section 7 per meeting, but may receive other benefits.

(c) In addition to the salary specified in charter section 7, the council shall receive the following other benefits:

- (1) Coverage under City of Boulder health and dental group benefit plans, with premiums paid entirely by council members electing such coverage; and
- (2) Other benefits and amenities, except salary, available to the City of Boulder officers and employees, as the council may specify by motion, after considering a city manager's report and recommendation on such other benefits and amenities.

Ordinance No. 7753 (2010); 7782 (2010)

¹ Adopted by Ordinance No. 4662. Derived from Ordinance No. 3345.

Chapter 2 General Administration¹

2-2-1. Legislative Intent.

The purpose of this chapter is to prescribe general requirements for the administration of the city government. The city council intends that the city manager may have appropriate discretion in determining the structure of the city government, consistent with the requirements of the charter.

2-2-2. Duties of City Manager.

(a) Whenever the term *city manager* is used in this code or any ordinance of the City, it means the manager or the manager's authorized representative.

(b) The city manager shall cause the ordinances of the City to be published as required by law, superintend their printing and examine the proof sheets and compare them with the original rolls.

(c) The city manager shall receive and file all papers to be filed among the city records.

(d) The city manager shall keep a correct and detailed account of all bonds issued and promissory notes given by the City, specifying under what order or ordinance they were issued or given, when they were issued or given, the outstanding principal amount, to whom they were issued or given, for what purpose they were issued or given, when they are payable, where they are paid and the amount and percentage of interest paid upon such bonds and promissory notes.

(e) The city manager shall make out and deliver to each person elected or appointed to any office in the City a certificate of such election or appointment.

(f) The city manager shall furnish to the city attorney any record or documents in the manager's office that the attorney may request to be used in any court and take receipts therefor. The manager shall also furnish any necessary, duly certified transcripts of the City.

(g) The city manager shall keep an account with each fund to which appropriations are made by the city council in such manner as to show at all times the state of each fund. The manager shall debit each fund with the amount of each appropriation as well as all money from time to time received from payments, transfers or otherwise and shall credit each fund with all warrants drawn on it for its use.

(h) The city manager shall collect all monies due to the City.

(i) The city manager may exempt management staff positions that report directly to the city manager or directly to the city council from participation in the Public Employees' Retirement Association.² The manager shall require each person employed in a staff position which has been designated as exempt who desires to withdraw from the Public Employees' Retirement Association to execute a trust agreement with a retirement trust approved by city council contemporaneously with such employee's withdrawal from the Public Employees' Retirement Association.

Ordinance No. 4888 (1985)

2-2-3. Government Organization.

(a) The city government consists of the following departments with the following duties, in addition to any other duties delegated thereto by the city manager:

(1) A department of finance and record, responsible to maintain the accounts of the City, collect revenues, make disbursements, maintain city records, make purchases for the City and keep minutes of all council proceedings;

(2) A department of community planning and development, responsible to prepare and recommend to the city council a plan for land development of the City, implement the plan through review and approval of land

¹ Adopted by Ordinance No. 4662. Amended by Ordinance No. 4704. Derived from Ordinance Nos. 2104, 2395, 2764, 2926, 3805, 3949, 4645, 1925 Code, 1955 Code.

² § 24-54-110, C.R.S.

development in the City and coordinate with other governmental agencies on land development and planning matters;¹

- (3) A department of public works and utilities, responsible to construct, maintain and manage all public rights-of-way and city utilities, administer building codes and supervise traffic engineering;
 - (4) A department of parks and recreation, responsible to supervise and maintain city park properties and recreational facilities, programs and functions;²
 - (5) A department of housing and human services, responsible to research and evaluate social problems and conditions in the community, develop and implement programs to respond to such social problems and conditions and coordinate city, state, federal and private agency efforts to improve such social conditions and solve such problems;³
 - (6) A department of open space and mountain parks, responsible to purchase, manage and maintain city real estate and open space and mountain parks;⁴
 - (7) A police department, responsible to provide for the public safety and enforce the laws of the City;⁵
 - (8) A fire department, responsible for providing fire protection, fire inspection and investigation and emergency medical service for the City and establishing fire prevention and natural disaster preparedness programs;⁶ and
 - (9) A department of the library, responsible to supervise the city library and any branches thereof.⁷
- (b) The city manager may create additional divisions and offices as the manager deems advisable.

Ordinance Nos. 5099 (1988); 7097 (2000)

2-2-4. Selection of City Depository.

- (a) As often as necessary, the city manager shall select one or more banks or banking institutions as a depository for city funds.
- (b) The city manager shall determine that each bank or institution selected under subsection (a) of this section is and continues to be an eligible public depository and has and maintains collateral for public funds as required by state law.⁸

Ordinance Nos. 5099 (1988); 5531 (1992)

2-2-5. Officers to Deliver Books and Papers to Successors.

No officer or employee of the city shall, upon leaving office, fail to deliver to the person's successor all books, papers, furniture and other things pertaining to the office.

2-2-6. City Seal.

- (a) The common seal of the city shall be of a circular shape in the center of which is a representation of the Boulder mountain backdrop engraved thereon and with the words "City of Boulder, Colorado" surrounding the image, and around the margin of such seal engraved upon the face thereof in Roman capitals.
- (b) The city manager is the official custodian of the city seal.

¹ See section 2-3-11, "Planning Board," B.R.C. 1981.

² See section 2-3-10, "Parks and Recreation Advisory Board," B.R.C. 1981.

³ See section 2-3-6, "Human Relations Commission," B.R.C. 1981.

⁴ See section 2-3-9, "Open Space Board of Trustees," B.R.C. 1981.

⁵ See chapter 2-4, "Police Administration," B.R.C. 1981.

⁶ See chapter 2-5, "Fire Department," B.R.C. 1981.

⁷ See section 2-3-8, "Library Commission," B.R.C. 1981.

⁸ §§ 11-10.5-101 et seq., and 11-47-101 et seq., C.R.S.

(c) The city manager shall affix the city seal or stamp a rubber stamp producing a facsimile thereof, upon all transcripts, orders or certificates that it may be necessary or proper to authenticate under the provision of a state statute or city ordinance. The manager shall also affix or stamp the seal to every contract or other instrument requiring the seal of the city under any state law or city ordinance.

2-2-7. City Auditor.

(a) Pursuant to sections 12 and 105 of the charter, at the first regular meeting in August 1982 and every year thereafter or more often if necessary, the city council shall, by resolution, appoint an auditor, who is a certified public accountant licensed to practice in the State of Colorado and is well informed regarding governmental accounting and auditing.

(b) The auditor appointed under this section shall sign an affidavit that the auditor has no substantial personal interest in the financial affairs of the city or any of its officers or employees.

(c) Immediately following December 31 of each year, and at such other times as required by provisions of the charter or by the city council, the auditor shall make a thorough and complete examination and audit of all the financial accounts of all employees, officers, departments, boards and commissions of the city. The auditor shall make complete reports in writing covering such examination and audit as soon as reasonably possible, but in any event no later than six months following the close of the immediately preceding fiscal year. The auditor shall furnish copies of such report to the city council, the city manager and the city attorney.

(d) The auditor shall make such recommendations as deemed advisable as to the manner of the system of accounting with the city and shall report any irregularity, error or oversight in the keeping of the accounts or compliance with ordinance or charter provisions.

2-2-8. Conveyance of City Real Property Interests.¹

(a) The city manager may convey, grant or lease any interest in any city real property for a term of three years or more only if the manager first obtains city council approval in the form of a motion, after which the manager may sign the deed or other instrument making the conveyance, grant or lease.

(b) Any deed or other instrument executed by the city manager, acknowledged by the director of finance and record and purporting to have been made under the terms of this section is prima facie evidence of compliance with all of the requirements of this section.

Ordinance Nos. 4839 (1984); 5919 (1997); 7291 (2003)

2-2-9. Returned Check Charge.²

The city manager shall assess a \$25.00 penalty against any person who issues a check returned for insufficient funds or lack of an account to the city in payment of taxes, licenses or any other fees collectable by the city. The manager shall assess the penalty prescribed by this section in addition to any other penalties or interest prescribed by any provision of this code or an ordinance of the city. For purposes of this section, the term "insufficient funds" means not having a sufficient balance in account with a bank or other drawee for the payment of a check when the check is presented by the city for payment within thirty days after its issue. The manager may waive the penalty upon a finding of good cause.

Ordinance Nos. 4946 (1985); 5012 (1986); 5940 (1997)

2-2-10. Delinquent Fees and Set-Offs of Refunds Due.

(a) In addition to taking any other collection remedies, whenever payment is required to be made to the city under this code, the charter or any ordinance or resolution of the city, for the performance of any function, provision of any service or granting of any entitlement and such payment is delinquent for a period of thirty days or more, the city manager

¹ For vacation of city rights-of-way, see chapter 8-6, "Public Right-of-Way and Easement Encroachments, Revocable Permits, Leases, and Vacations," B.R.C. 1981, and § 43-2-301 et seq., C.R.S.

² §§ 24-35-114 and 39-10-116, C.R.S.

shall furnish no further services, other than services for which no specific fee is charged, to any person who owes such payment to the city, until such delinquent payment is made.

(b) The city manager may set off against any refunds due from the city to any person any amounts due to the city from such person.

(c) Before terminating any future service or setting off any past due amounts against refundable amounts, the manager shall afford to the person against whom such action is proposed to be taken an opportunity for a hearing under the procedures prescribed by chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, to contest the amounts due to the city.

2-2-11. Traffic Engineering.

(a) The city manager is appointed as traffic engineer for the city to perform the responsibilities provided in this section and other applicable ordinances of the city. It is the general duty of the traffic engineer to plan the installation, timing and maintenance of traffic control devices; to plan and direct the operation and parking of traffic on the streets of the city; to conduct investigations of traffic conditions; to represent the city in dealing with officials of other governments on traffic and street improvements; to make agreements dividing responsibility for maintenance of streets and traffic control devices over which authority is exercised jointly with other governments; and to take such steps as are reasonably necessary and proper to carry out these plans subject to the availability of funds.

(b) In addition to other duties prescribed by this code or other ordinances of the city, the city manager may, without limitation:

- (1) Plan for and regulate the movement of traffic on the streets of the city including parking areas;
- (2) Investigate traffic conditions, conduct safety studies and study police and citizen accident reports;
- (3) Determine when and where to install traffic control devices, including, without limitation, traffic signals, signs and markings;
- (4) Determine the timing of traffic control signals;
- (5) Determine where certain types of traffic on certain streets or lanes of roadways should be restricted or prohibited;
- (6) Establish speed limits;
- (7) Determine where angle parking should be established;
- (8) Determine where loading zones should be established;
- (9) Determine when stopping or parking should be prohibited or limited to certain times or certain classes of vehicles;
- (10) Determine the need for and location of tow-away zones;
- (11) Determine where parking on streets or city parking lots should be metered and the amount to be charged;
- (12) Establish safety zones of such kind and character and at such places where the manager finds that there is particular danger to pedestrians and whose existence is reasonably likely to reduce that danger;
- (13) Close or prescribe methods for handling traffic impacts on streets during civil emergencies, construction projects or other activities impacting the public rights of way or easements;
- (14) Establish barricaded play streets if the manager finds that the public safety and convenience would be served thereby;
- (15) Close streets or portions of streets temporarily for no more than eight hours for community or neighborhood events, if the manager finds that the public safety and convenience would not be thereby adversely affected

and subject to such conditions as the manager deems reasonable to protect public health, safety and welfare; and

- (16) Approve use of all or a portion of streets for bicycle or pedestrian racing events, and temporarily close for no more than twelve hours all or a portion of such areas as reasonably necessary for the safety of racers, spectators and those who would otherwise use the facility, if the manager also determines that:
 - (A) The event will not unreasonably interfere with other traffic or with access to affected properties;
 - (B) If required by the manager, the organizers have secured the approval of the persons in possession of affected properties;
 - (C) Approval of the Colorado Department of Highways has been secured by the race organizers if any portion of the event is on a state highway;
 - (D) The organizers have agreed to pay the reasonable costs, as determined by the manager, of the extra expenses, including, without limitation, salaries and overtime of city employees, reasonably occasioned by city participation in preparation, monitoring, directing traffic, securing areas and returning the areas to their normal use, and have paid such amounts in advance or have secured such payment obligation by a method acceptable to the manager;
 - (E) The race organizers have presented a practical and detailed plan of the event which, if followed, will promote reasonable safety and minimize traffic disruption; and
 - (F) The organizers have demonstrated an ability to comply with the plan.

(c) The city manager may erect, install and maintain such traffic control devices as are reasonably necessary to effectuate the manager's determinations and to cover emergencies, tests, experiments and other special circumstances.

(d) In exercising the discretion delegated by this section, the city manager shall consider the following factors that apply under the circumstances:

- (1) The standards of the traffic engineering profession and of the state and federal governments;
- (2) Public safety;
- (3) The most efficient use of the streets and city parking areas; and
- (4) The costs involved.

(e) The city manager shall make and maintain records of the location, installation, functioning and maintenance of all traffic control devices. The manager shall maintain a record of all approvals made by the Colorado Highway Department of traffic control devices on state highways.

(f) The city manager is authorized to produce or acquire and sell to the public handicapped parking permits which will serve in lieu of depositing money or tokens in parking meters, or purchasing time in a parking space in a pay station, on city streets and city parking lots by vehicles eligible to park in spaces designated for parking by the handicapped. If the Central Area General Improvement District or the University Hill General Improvement District determines to extend use of these permits to meters or pay stations on lots owned or leased by the district, or to attended parking on such lots, the general manager of the district shall enter into a written agreement with the city manager specifying how to divide the permit revenues equitably between the general fund and the district in proportion to the division which would occur were no permits sold. If the manager determines to institute such a program, the manager shall, by regulation, specify the form of the permit, the method of its use and display, the method of application and purchase, the cost of the permit and any restrictions on its use.

(g) Parking exemptions.

- (1) The city manager is authorized to specify the circumstances under which authorized emergency vehicles of the city police and city fire departments, of the Boulder County Sheriff's Department, the University of Colorado Police Department and the Colorado State Patrol, may park in metered parking spaces or spaces regulated by pay stations on city streets, alleys or parking lots for investigative and administrative purposes not rising to the level of an emergency governed by the parking exemption of section 7-2-12, "Exemptions for Authorized Emergency Vehicles," B.R.C. 1981, without paying the fees specified and in excess of the time limit. With respect to city vehicles covered by this policy, the manager shall estimate the annual parking revenue loss occasioned thereby, and cause such an amount to be transferred from the amount appropriated for each such department into the parking meter revenue account.
- (2) The city manager is authorized to issue meter parking permits to public utility companies for display on marked service vehicles of such utility companies in lieu of depositing money in meters or pay stations on city streets, alleys or parking lots in return for prepayment of the parking meter revenue loss occasioned thereby, as estimated by the manager. Such permits may only be displayed when the service vehicle is parked in a metered space or space regulated by a pay station in response to a bona fide utility service necessity.

Ordinance Nos. 5233 (1989); 5241 (1989); 5920 (1997); 7294 (2003); 7687 (2009)

2-2-12. City Manager May Certify Taxes, Charges and Assessments to County Treasurer for Collection.¹

(a) If any property owner fails or refuses to pay when due any tax, charge or assessment imposed by this code or any ordinance of the city, the city manager may, in addition to taking other collection remedies, certify due and unpaid tax, charge and assessment, 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.

(b) Before certifying taxes, charges and assessments to the county for collection as prescribed by subsection (a) of this section, the city manager shall provide to the property owner an opportunity for a hearing to contest the authority of the city to incur the tax, charge or assessment or the amount thereof. The manager shall conduct such hearing under the procedures prescribed by chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, except that the manager shall mail the notice to the property owner by first class mail addressed to the last known owner of property on the records of the Boulder County Assessor. If the manager's decision after a hearing affirms the imposition of charges, the decision shall include notice that the charges are due and payable within ten days of the date of the decision and that, if not paid when due, they will be certified to the Boulder County Treasurer for collection, along with ten percent of the charges for the cost of the county collection.

(c) Whenever the city manager certifies any tax, charge or assessment to the Boulder County Treasurer for collection, the manager shall record notice of such certification to the Boulder County Clerk and Recorder.

2-2-13. Open Space Program.

(a) Pursuant to a vote of the electorate on November 7, 1967,² November 4, 1986, November 7, 1989,¹ November 4, 1997,¹ and November 6, 2001, the city has established an Open Space Program whose objective is to preserve and protect the quality of the natural environment of the city. Land or interests in land acquired with open space funds may not be developed for intensive recreational uses or improved by planting or structures unless such improvements are necessary to protect and maintain open space land.

(b) There shall be a department of open space and mountain parks, which shall be responsible for all open space land and other property associated therewith.

(c) Under the direction, supervision and control of the city manager, there shall be a director of the department of open space and mountain parks, who may also serve as the city's director of real estate. Subject to the limitations set forth in subsection 2-3-9(e), B.R.C. 1981, the department of open space and mountain parks:

¹ §§ 31-20-105, 106, C.R.S.

² For provisions earmarking sales and use tax revenues for open space, see section 3-2-39, "Earmarked Revenues," B.R.C. 1981.

- (1) Shall acquire, supervise, administer, preserve and maintain all open space land and other property associated therewith and may grant nonexclusive licenses and permits and agricultural leases for crop or grazing purposes for a term of five years or less;
- (2) Shall supervise, administer and execute all open space programs, plans, functions and activities of the city;
- (3) Shall prepare and submit to the open space board of trustees written recommendations on those matters on which this code requires a recommendation from said board prior to council or department action;
- (4) May, at the request of the open space board of trustees, prepare and submit to the board information and recommendations on such open space matters as are not provided for by paragraph (c)(3) of this section; and
- (5) May request advice on any open space matter from the open space board of trustees.
- (d) The city manager shall employ various methods to preserve open space land, including, without limitation:
 - (1) Purchase of the fee interest in land;
 - (2) Easements and development rights to retain land in an open, natural condition;
 - (3) Scenic easements and trail easements;
 - (4) Notes and deeds of trust;
 - (5) Options to preserve the city's opportunities to acquire land in the future at current prices; and
 - (6) Leases, lease-purchases and lease-back arrangements whereby land purchased by the city can be used for agricultural purposes consistent with the objectives of the program.
- (e) The city manager shall attempt to obtain funds from other government agencies and private institutions and shall communicate with interested government agencies, such as Boulder County, on the program's progress in order that such agencies may develop long-range planning and land use policies consistent with the city's open space program.

Ordinance No. 7291 (2003)

2-2-14. Initiation and Settlement of Claims and Suits.

- (a) The city attorney is authorized to initiate and pursue, defend and settle civil actions and administrative proceedings as provided in this section. In all other cases, approval by the city council is required.
- (b) Upon the request of the city council or city manager, or upon his or her own initiative with the consent of the city council or city manager, the city attorney shall initiate and pursue or intervene in, a judicial or administrative civil action to recover losses and/or pursue legal remedies to address:
 - (1) Damage to city property;
 - (2) Breach of any contract;
 - (3) Abatement of any nuisance, except that when more specific authority is granted to the city attorney by other provisions of this code, that authority shall prevail;
 - (4) The need to enjoin any act or omission which affects a policy, financial, property, personnel or administrative interest of the city which has been previously recognized by the city council;
 - (5) The need to declare the rights of the city when necessary or desirable to carry out or clarify a policy, financial, property, personnel or administrative interest of the city which has been previously recognized by the city council.

(c) The city attorney may independently initiate or intervene in judicial or administrative civil actions upon his or her initiative for any lawful purpose when, in the opinion of the city attorney, there are exigent circumstances that warrant proceeding immediately without city council or city manager approval. As soon after initiating such an action as possible, the city attorney shall seek the authorization of the city council or city manager as otherwise provided in this section.

(d) In any lawsuit or administrative proceeding in which the city is a defendant or party, the city attorney is authorized to defend and represent the city's interests, and to file such counterclaims, crossclaims or claims against third parties as, in the opinion of the city attorney, are necessary to protect the city's interests.

(e) To the extent that appropriated funds are available for the purpose, the city attorney, with the city manager's approval, is authorized to settle any claim against the city or suit in which the city is a party defendant if no more than \$10,000.00 is paid by the city for settlement of the claim or suit, whether denominated as attorneys' fees, damages or otherwise. In all other cases, approval by the city council is required. No other city official is authorized to settle any claim for damage, injury or otherwise, nor expend any funds to address or resolve potential liability against the city or an official or employee of the city.

(f) In any lawsuit in which the city is a party, the city attorney may consider the city manager or the manager's delegate to be the client for the purposes of satisfying the attorney's ethical obligations to keep the client fully informed, to obtain the client's consent concerning settlement other than for settlement covered in subsection (e) or (h) of this section, and for discussing alternative dispute resolution and other matters arising during the lawsuit. Notwithstanding this authorization, the city attorney shall keep the council informed of litigation matters to the greatest extent possible. The city attorney shall report at least annually to the city council on the status of all litigation involving the city.

(g) Nothing in this section shall be construed to limit the city attorney's authority and duty to initiate criminal actions or other actions authorized by ordinance or state law.

(h) To the extent that appropriated funds, insurance or both are available for the purpose, the city manager and the city attorney are authorized to settle any claim against the city by a city employee arising under the Workers' Compensation Act of Colorado.

Ordinance Nos. 4936 (1985); 5716 (1995); 7433 (2005)

2-2-15. Neighborhood Permit Parking Zones.

(a) Restricting parking on streets in certain areas zoned for residential uses primarily to persons residing within such areas will reduce hazardous traffic conditions, promote traffic safety and preserve the safety of children and other pedestrians in those areas; protect those areas from polluted air, excessive noise, trash and refuse; protect residents of those areas from unreasonable burdens in gaining access to their residences; preserve the character of those areas as residential; promote efficiency in the maintenance of those streets in a clean and safe condition; preserve the value of the property in those areas; and protect the peace, good order, comfort, convenience and welfare of the inhabitants of the city. The city council also finds that, in some cases, residential streets serve an important parking function for nonresidents in the public and commercial life of the city. Some accommodation for parking by others may be appropriate in these cases.

(b) Upon receipt of a request by twenty-five adult residents of a neighborhood proposing a neighborhood permit parking zone, the city manager will conduct studies to determine if a neighborhood permit parking permit zone should be established in that neighborhood, and what its boundaries should be. The manager may, if the manager concludes it is in the public interest to do so, initiate this process without any request. The manager may consider, without limitation, the extent to which parking spaces are occupied during working or other hours, the extent to which parked vehicles are registered to persons not apparently residing within the neighborhood, the impact that businesses and facilities located within or without the neighborhood have upon neighborhood parking within the neighborhood, such other factors as the manager deems relevant to determine whether parking by nonresidents of the neighborhood substantially impacts the ability of residents of the proposed parking permit zone to park their vehicles on the streets of the proposed zone with reasonable convenience, and the extent to which a neighborhood permit parking zone would significantly reduce this impact. The manager shall also determine the need for reasonable public access to parking in the area, and the manner and extent that it should be provided, along with the hours and days on which parking restrictions should apply. No such parking restrictions shall apply on Sundays or holidays.

(c) If the manager determines that establishing a neighborhood permit parking zone is in the public interest, or that altering a residential parking zone in existence on January 1, 1997, or created thereafter, is in the public interest, the manager shall prepare a proposal for the zone, specifying the boundaries, the hours and days on which parking restrictions will apply, and the provisions, if any, for nonresident permit parking. The manager may hold such public meetings as deemed advisable to assist the manager in formulating such proposal. The manager shall present this proposal for the zone to the Transportation Advisory Board. The board, after including in its normal public notice these features of the manager's plan, shall hold a public hearing on the manager's proposal, and shall recommend to the manager that the zone be established, that it be established with certain modifications which are within the manager's authority under this code and any adopted regulations, or that it not be established. The manager shall, within thirty days of the board's recommendation, provide the city council with the manager's proposal to the board, the board's recommendation and related comments, the manager's final plan, and the reason for any difference between the recommendation and the final plan. If the city council does not call up the manager's final plan within thirty days, the manager may establish the zone. If the city council calls up the manager's final plan, it shall hold a public hearing on the plan and, by motion, direct the manager not to establish the zone, or to establish the zone with any modifications which are within the manager's authority, or to establish the zone in accordance with the manager's final plan. The manager shall establish the zone approved by regulation, but if the zone is established after a city council call-up, the manager shall not call for public comment in the notice of proposed regulation.

(d) Upon establishment of a zone, the manager shall, subject to the availability of funds appropriated for the purpose, install the necessary traffic control devices within the zone and issue neighborhood parking zone permits pursuant to chapter 4-23, "Neighborhood Parking Zone Permits," B.R.C. 1981.

(e) The manager may by regulation prescribe additional standards, not inconsistent with those set out in this section, which must be met before the manager designates a neighborhood permit parking zone, or adds or deletes territory from an established zone. The manager may issue regulations governing the issuance and use of neighborhood parking permits not inconsistent with chapter 4-23, "Neighborhood Parking Zone Permits," B.R.C. 1981.

(f) The city manager shall monitor the program on a regular basis and annually provide the city council with a report on the neighborhood permit parking program generally, including its relationship to parking supply and demand in adjacent areas of the city and the status of zone block faces under subsection 4-23-2(j), B.R.C. 1981. The details of the monitoring effort shall be contained in administrative regulations promulgated by the city manager pursuant to chapter 1-4, "Rulemaking," B.R.C. 1981.

Ordinance Nos. 4966 (1986); 5869 (1997)

2-2-16. Manager's Authority to Set Fees and Prices.

(a) The manager may by regulation prescribe the fees to be charged for photocopying or other duplication or for printouts of public records as defined by state law.¹ Such fees shall not exceed \$1.25 per page unless actual costs exceed that amount.

(b) The manager may by regulation prescribe the fees to be charged for the search, retrieval and copying of criminal justice records as defined by state law.² Such fees shall not exceed actual costs.

(c) The manager may dispose of any property, other than real property, of the city which the manager deems to be surplus to the city's needs in such manner and under such circumstances and for such price as the manager determines to be in the public interest.

(d) Whenever the manager determines that there are services which the city is capable of performing for members of the public upon specific request by individuals, which are not required to be provided by law, and for which a specific fee has not been set by this code, the manager may perform such services by contract, for a price which the manager determines to be in the public interest. If the manager determines that such services are of a recurring nature, the manager may, by regulation, set a schedule of fees for the performance of such services.

¹ § 24-72-201 et seq., C.R.S.

² § 24-72-301 et seq., C.R.S.

Ordinance No. 5017 (1986)

2-2-17. Unclaimed Intangible Property in Possession of City.

(a) All unclaimed "intangible property," as that term is defined in § 38-13-102, C.R.S., of another person which is held by the city and which remains unclaimed by the owner for more than six months after it became due and owing to that person shall be deemed abandoned and shall escheat to the city as if it were a gift to the city. After such intangible property has become subject to escheat the city manager shall take reasonable steps under the circumstances to notify the owner of the intangible property that it is unclaimed and subject to escheat. Such notice shall give the owner sixty days to reclaim the intangible property by written application to the manager at an address specified in the notice, shall describe the intangible property, give its amount or estimated value, and the circumstances by which the intangible property came to be held by the city. Notice shall be sufficient, without limitation, if it is sent by regular or certified mail to the last address of the owner known to the city. If no address is known by the city or the mailed notice is returned as undeliverable, the manager shall publish notice once in a newspaper of general circulation in the city and post notice on the city's world wide web site during the sixty-day period in which the owner is allowed to apply for the property.

(b) For unclaimed gift certificates issued by the city, the abandonment period shall be five years instead of one.

(c) This section does not apply to any intangible personal property which any other provision of this code declares to be forfeit to the city.

(d) This section does not apply to any intangible personal property for which any other provision of this code provides a method of disposition.

(e) Nothing in this section is intended to affect the obligations under state law of private parties as holders of unclaimed intangible property.

Ordinance Nos. 5472 (1992); 7162 (2001)

2-2-18. Property Inventories.

The city manager shall establish a capitalization threshold annually and conduct annual inventories of the real and personal property belonging to the city having an original cost in excess of the established threshold, any provision of the laws of this state to the contrary notwithstanding.

Ordinance Nos. 5102 (1988); 5530 (1992); 5765 (1995)

**Chapter 2.5
Civil Emergencies and Disasters**

2-2.5-1. Legislative Intent.

(a) The purpose of this chapter is to provide for continuity and efficient operation of local government in times of disaster emergency.

(b) Toward that end, this chapter provides for necessary organization, powers and authority to enable a timely and effective use of all available city resources to prepare for, respond to and recover from civil emergencies, emergencies or disasters that are likely to affect the health, security, safety or property of city inhabitants.

(c) During a time of civil emergency, emergency or disaster, the city manager shall serve as the executive head of the city's fire and police resources and shall retain the power to direct their activities pursuant to Boulder Charter sections 63 and 64. Also, during such a time and pursuant to Boulder Charter section 72, the city manager shall serve as executive head of the divisions of fire and police, with power to direct the activities of either or any of such divisions, and with power to appoint, transfer or remove any and all of the officers and employees therein.

(d) The city manager shall also retain, during the period of civil emergency, emergency or disaster, the power to deputize, appoint and administer the oath of office to any necessary and additional firefighters, police officers or patrol

officers, as the nature of the civil emergency, emergency or disaster may require, during the period of such public danger or emergency.

(e) The city manager, or other person serving in the stead of the city manager by virtue of the city manager's designation or by the operation of the provisions of this chapter, shall declare, manage and officially end an officially declared state of civil emergency, emergency or disaster.

(f) However, pursuant to section 15 of the Boulder City Charter, the city council may at any time direct the mayor to take command of the police and maintain and enforce the laws with regard to police affairs during a disaster emergency. If that is done, the mayor shall exercise all of the powers detailed in this chapter for the city manager during a declared state of civil emergency, emergency or disaster. If the mayor is unavailable or incapable of assuming such duties, the deputy mayor or other council member designated by council action shall perform this function.

(g) All the provisions of this chapter are to be interpreted and enforced in a manner that is consistent with the Constitution of the United States of America and with the Constitution of the State of Colorado.

Ordinance No. 7651 (2009)

2-2.5-2. Definitions.

Civil emergency means conditions of unrest, including but not limited to riot, civil disturbance, unlawful assembly, hostile military or paramilitary action, war, terrorism or sabotage.

Declaration means a written document executed by the city manager which declares a civil emergency, emergency or disaster.

Disaster means the occurrence of widespread or severe damage, injury or loss of life or property resulting from any natural or human cause, including but not limited to lightning, wildfire, wind, blizzard, geological hazard, hurricane, flood, building or structural collapse or failure, epidemic, utility emergency, sudden and severe energy shortages, snowstorm, ice storm, windstorm, hazardous substance spills, chemical or petroleum spills, biological material release, radiological release or spill, public health emergency or accident.

Disaster emergency shall include the meanings of the terms *civil emergency*, *emergency* and *disaster*.

Emergency means any occurrence or threat of a disaster of major proportions, in which the safety and welfare of the inhabitants of the city or their property are jeopardized or placed at extreme peril and in which timely action to avert or minimize damage is essential.

Ordinance No. 7651 (2009)

2-2.5-3. Declaration of a Disaster Emergency.

(a) The city manager may declare a disaster emergency when the manager determines that there is reasonable cause to believe that the city, or any part of the city, is suffering from, or is in imminent danger of suffering from, a disaster emergency, and that a declaration of disaster emergency is required to avoid or mitigate serious injuries to members of the public or the loss of life or property.

(b) Any declaration of a disaster emergency issued by the city manager shall be promptly filed with the city clerk and, as soon as possible thereafter, the city manager shall notify the city council. The public shall also be notified of a declaration of disaster emergency through general dissemination to the news media, posting on the city websites or by the use of other means of communication appropriate for informing the general public.

Ordinance No. 7651 (2009)

2-2.5-4. City Council Review.

At any time during a declared disaster emergency, the city council may review the city manager's disaster emergency management. If the council has reasonable cause to believe that the manager has not adequately managed the

disaster emergency, or that the manager imprudently declared or terminated the disaster emergency condition, the council may, by appropriate motion, relieve the city manager from further disaster emergency management duties. In such an event, the mayor will become responsible for disaster emergency management and for compliance with the provisions of this chapter. However, if the mayor is unavailable or incapable of assuming such duties, the deputy mayor or other council member designated by council action shall perform this function.

Ordinance No. 7651 (2009)

2-2.5-5. Term of Declaration.

A declaration of a disaster emergency shall be in effect as determined by the city manager for a period of up to seven days. This period may be extended upon submission of a request by the city manager and approval of the city council.

(a) In the event that a quorum of the city council cannot be assembled to approve a continuance of the declaration, such declaration shall remain in effect until such time as a quorum can be assembled.

(b) In the event that a quorum of the city council can meet to provide the city manager with advice and consultation during a declared disaster emergency, such meeting shall be held in compliance with the Colorado Open Meetings Law and Council Procedures as soon as possible after the declaration of disaster emergency. However, the city council shall, in any event, meet no later than seven days following the initial declaration of disaster emergency unless the nature of the disaster emergency makes such a meeting impossible, in which case the city council shall meet as soon as is feasible thereafter.

Ordinance No. 7651 (2009)

2-2.5-6. Succession of Authority.

(a) The city manager may, at the start of each calendar year, publish and submit to city council an order of succession of city officials who shall execute the duties and powers described in this chapter for execution by the city manager in the event that the city manager is unavailable to declare or manage a disaster emergency.

(b) In any calendar year in which the city manager fails to publish and submit such list to city council, the line of succession of authority to declare and manage a disaster emergency shall include those occupying the following positions in the following order:

- (1) The city manager;
- (2) The deputy city manager who oversees the operating departments of the city;
- (3) The deputy city manager overseeing administration, if that person is different than the deputy city manager who oversees the operating departments of the city;
- (4) The police chief;
- (5) The fire chief;
- (6) The executive director of public works or other public works director who is responsible for overseeing utilities;
- (7) The finance director; or
- (8) In the event none of the above noted people are available to serve, the deputy director or other highest ranking person within each of the various departments, in the line of succession as indicated above, shall serve.

(c) However, the succession of authority provided in this section shall always be subject to the power of the city council to determine, by appropriate motion, that the mayor shall take responsibility for the management of a disaster emergency.

2-2.5-7. Powers.

Upon the issuance of a declaration of disaster emergency, the city manager shall, upon a finding of need, issue such orders as may be required to protect the health, safety and welfare of persons or property within the city or to otherwise preserve the public peace or abate, clean up or mitigate the effects of any disaster emergency. Such orders, once issued, may be changed from time to time during the period of a declared disaster emergency based upon the discretion of the city manager and may include, but are not limited to, orders to accomplish the following objectives:

- (a) Direct and compel the evacuation of all or a part of the population from any stricken or threatened areas or property within the city if the city manager deems this action is necessary for the preservation of life or property, and preclude members of the public from reentering an evacuated area;
- (b) Prescribe routes, modes of transportation and destination in connection with an evacuation;
- (c) Establish transportation control routes related to ingress to or egress from any part of the city;
- (d) Impose traffic restrictions to allow emergency response or otherwise control traffic, including the imposition of a prohibition of all traffic except for vehicles operated by individuals deemed essential to assist in the emergency operations and prohibit any person from stopping, standing, parking or abandoning a vehicle in a right-of-way that obstructs emergency operations;
- (e) Close streets, alleys, sidewalks, public parks, public ways or other public places or eliminate access to buildings, streets, alleys, sidewalks or other public or private places;
- (f) Delegate authority to such city officials as the city manager determines reasonably necessary or expedient;
- (g) Transfer the direction, personnel or functions of city departments and agencies for the purposes of performing or facilitating emergency services;
- (h) Require emergency services of any city officer or employee;
- (i) Utilize all available resources of the city as may be reasonably necessary to cope with the disaster emergency whether in preparation for, response to or recovery from a disaster emergency;
- (j) Acquire the services of non-city personnel as may be available, including citizen volunteers, if regular city employee resources are determined to be inadequate, with the understanding that all duly authorized persons rendering emergency services pursuant to this provision shall be entitled to the privileges and immunities provided by state law;
- (k) Appropriate and expend funds, execute contracts, authorize the acquisition of property, equipment, services, supplies and materials without the strict compliance with normal city procurement procedures;
- (l) Accept services, gifts, grants and loans, equipment, supplies and materials whether from private, nonprofit or governmental sources;
- (m) Hire or contract for construction, snow removal, engineering, architectural, building, electrical, plumbing and/or other professional or construction services essential to continue the activities of the city without the advertising of bids or strict compliance with other formal procurement requirements;
- (n) Make application for local, state or federal assistance;
- (o) Make such special provisions for the health and safety of animals as may be necessary and feasible;
- (p) Terminate or suspend any process, operation, machine, device or event when, in the absence of such termination or suspension there is imminent danger that the life, health, safety and/or welfare of persons or the physical security of property within the city will be seriously compromised;

(q) Establish a curfew during such hours of the days or nights that shall affect categories of persons as may be designated in a curfew order;

(r) Suspend or modify provisions of any ordinance if strict compliance with such ordinance would prevent, hinder or delay action that is necessary to cope with any disaster emergency;

(s) Suspend or limit use of the city's water resources;

(t) Require the continuation, termination, disconnection or suspension of natural gas, electric power, water, sewer or other public utilities;

(u) Close or cancel the use of any city owned or operated building or other public facility.

(v) Control, restrict, allocate or regulate the use, sale, production or distribution of food, water, clothing and other commodities, materials, goods, services and resources;

(w) Require the closing of businesses when, in the absence of such action, there would be an imminent danger that the life, health, safety and/or welfare of persons or the physical security of property within the city might be seriously compromised;

(x) Suspend or limit the sale, distribution, dispensing or transportation of alcoholic beverages, firearms, explosives and/or combustible products and require the closing of those businesses or parts of businesses insofar as the sale, distribution, dispensing or transportation of these items are concerned;

(y) Prohibit the sale or distribution within the city of any products which could be employed in a manner that would constitute a danger to public health or safety; and

(z) Commandeer or use any private property if that action is necessary to cope with an imminent threat to life, health or property that is caused by a disaster emergency condition, subject, however, to applicable legal requirements for compensation.

Ordinance Nos. 7651 (2009); 7681 (2009)

2-2.5-8. Adherence to Emergency Orders.

(a) Police, code enforcement and such other law enforcement and peace officers as may be authorized by the city manager shall be authorized to enforce the orders, rules and regulations made or issued pursuant to this chapter.

(b) All members of the public shall be deemed to have been given notice of the restrictions contained within a declaration upon its dissemination to the news media or publication on city websites or by use of other means of publicity.

(c) During the period of a declared disaster emergency, a person shall not:

(1) Enter or remain upon the premises of any establishment not open for business to the general public, unless such person is the owner or authorized agent of the establishment;

(2) Violate any of the orders duly issued by the city manager or designee pursuant to such declaration; or

(3) Willfully obstruct, hinder or delay any duly authorized city officer, employee or volunteer in the enforcement or exercise of the provisions of this chapter, or of the undertaking of any activity pursuant to this chapter.

Ordinance No. 7651 (2009)

2-2.5-9. Roles of the Municipal Court, City Attorney and Director of the Office of Emergency Management During a Declared Disaster Emergency.

(a) During and after a declared disaster emergency:

- (1) The municipal court shall have authority to issue appropriate and special orders pertaining to court procedures, location of hearings and time frames within which judicial proceedings are held, so long as such orders are in compliance with the United States Constitution and the Constitution of the State of Colorado.
- (2) The city attorney shall provide legal advice and assistance to the city manager, to city council and to the various divisions and departments of the city in order to assist the city manager in carrying out the provisions of this chapter.
 - (b) Prior to, during and after a declared disaster emergency, a director of the Office of Emergency Management, approved by the city manager, shall assist the city manager to:
 - (1) Comply with all requirements of the Federal Emergency Management Agency (FEMA) and the Colorado Division Emergency Management Agency (CDEM) in order to procure the maximum amount of federal and state assistance and grant monies for the city;
 - (2) Assure that the Emergency Operations Plan (EOP) is kept current;
 - (3) Act as liaison with all emergency response agencies and ensure their cooperation in drafting their portions of the EOP. All agencies over which the city has authority shall provide such cooperation in planning;
 - (4) Develop a schedule of training to ensure that all persons with specific responsibilities under the EOP understand their duties and are capable of performing their duties. All persons with specific responsibilities under the EOP shall comply with the training schedule to understand their duties and be capable of performing their duties;
 - (5) Prepare and coordinate exercises of the EOP as mandated by FEMA and CDEM. The EOP shall be tested as deemed necessary;
 - (6) Conduct debriefings in the aftermath of the EOP exercises and revise the plan to reflect lessons learned;
 - (7) Assist the city manager in negotiating and entering into Mutual Aid Agreements;
 - (8) Coordinate resources for the city manager and perform all other duties assigned by the city manager in the response to a disaster emergency;
 - (9) Cooperate and coordinate with state and federal authorities in the aftermath of a disaster emergency to ensure the maximum available support for recovery and assistance for persons and businesses;
 - (10) Develop a mitigation plan for the city in cooperation with all city departments and other governmental agencies; and
 - (11) Work with the city manager to ensure that requirements for infrastructure replacement are consistent with current best practices to ensure the maximum assistance from the federal government in the event that public facilities must be reconstructed or replaced in the aftermath of a disaster emergency.

Ordinance No. 7651 (2009)

2-2.5-10. Authority to Enter a Property.

During the period of a declared disaster emergency, a city employee or authorized agent may enter onto or upon private property if the employee or authorized agent has reasonable grounds to believe that an emergency situation exists and that an entry on private property is required in order to protect life or minimize an imminent threat to property.

Ordinance Nos. 7651 (2009); 7681 (2009)

2-2.5-11. Location and Special Procedures for Governing Body Meetings and Departments.

(a) Whenever a disaster emergency makes it imprudent or impossible to conduct the affairs of the city at regular locations, the governing body may meet at any place, inside or outside the city limits. Any temporary disaster emergency

meeting location for the governing body shall continue until a new location is established or until the disaster emergency is terminated and the governing body is able to return to its normal location.

(b) Whenever a disaster emergency makes it imprudent or impossible to conduct the affairs of any department of the city at its regular location, such department may conduct its business at any place, inside or outside the city limits and may remain at a temporary location until the disaster emergency is declared ended or until the department is able to return to its normal location.

(c) Whenever a disaster emergency makes it imprudent or impossible for city council, or any city committee, board or commission or other such body to meet at a previously scheduled date and time, such meeting shall be deemed to be postponed until a quorum of the city council, city committee, board or commission or other such body is able to meet.

(d) Any official act or meeting that must ordinarily be performed at regular or specified locations shall be valid when performed at a temporary location pursuant to this section.

(e) To the extent that is consistent with the United States and Colorado constitutions, any time requirement, deadline, procedure, scheduled hearing or other event in the municipal court may, upon a finding of good cause, be waived, altered or rescheduled by the presiding municipal court judge during a declared disaster emergency.

(f) The provisions of this section shall apply to all executive, legislative and judicial branches, and to all powers and functions conferred upon the city and its officers, employees and authorized agents by the Constitution of the State of Colorado, Colorado Revised Statutes, the Boulder Revised Code and the Charter of the city of Boulder.

Ordinance Nos. 7651 (2009); 7681 (2009)

2-2.5-12. Mutual Aid Agreements.

During the course of a declared disaster emergency, the city manager may, on behalf of the city, enter into reciprocal aid, mutual aid, joint powers agreements, intergovernmental assistance agreements or other contracts or plans with other governmental entities necessary for the protection of life and property. Such agreements may include the furnishing or exchange of supplies, equipment, facilities, personnel and/or services.

Ordinance Nos. 7651 (2009); 7681 (2009)

2-2.5-13. Access to Tabor Funds.

In the event of a declared disaster emergency, the city manager shall have access to the city emergency funds mandated by the Taxpayer's Bill of Rights (TABOR) as set forth in Article X, Section 20, Subsection (5), entitled Emergency Reserves, of the Constitution of the State of Colorado. Funds utilized pursuant to this chapter shall be replenished no later than the conclusion of the following fiscal year.

Ordinance No. 7651 (2009)

2-2.5-14. Report by City Manager/Discretionary Ratification by City Council.

(a) At such time as a disaster emergency shall be declared ended, the city manager shall prepare a written report that details the official actions taken by the city manager during the declaration, including a timeline, significant actions and a detailed summary of all expenses incurred during such declaration. That written report shall be made available to members of the public, and it shall be submitted to the city council within thirty days of the date on which the disaster emergency is declared ended, except that the summary of expenses incurred may be provided during such other period as city council may allow.

(b) The city council shall consider the city manager's report at a properly noticed public meeting. At that meeting, the city council may (but is not required to) ratify the actions taken by the city manager during the period of a declared disaster emergency. If the city council disagrees with actions taken by the city manager during the disaster emergency, it may refuse to ratify those actions. However, whether or not the city manager's actions are ratified by the city council, the city manager's report shall be made a part of the official public record of the city council meeting at which the report was discussed by the city council.

Ordinance No. 7651 (2009)

2-2.5-15. Severability.

The provisions of this chapter are declared to be severable. If any section, sentence, clause or phrase of this chapter is declared invalid or unconstitutional, or if the application of this chapter to any person or circumstance is held to be invalid or unconstitutional, such holding shall not affect the validity of the remaining sections, sentences, clauses and/or phrases of this chapter.

Ordinance Nos. 7651 (2009); 7681 (2009)

2-2.5-16. Judicial Review.

Nothing in this chapter shall preclude a party from seeking a protective order or declaration of rights in any court of competent jurisdiction when such party believes that either a disaster emergency declaration or an action issued pursuant to this chapter violates any provision of the Constitution of the United States of America or of the Constitution of the State of Colorado.

Ordinance No. 7651 (2009)

**Chapter 3
Boards and Commissions¹**

2-3-1. General Provisions.

- (a) The city council:
 - (1) At a regular meeting before April shall appoint members to city boards and commissions, who are city electors representing both sexes;
 - (2) May remove any member by majority vote for conflict of interest violation,² any other violation of applicable law, regulation or policy, nonattendance to duty, failure to attend three consecutive regularly scheduled meetings without a leave of absence approved by a majority of the board or commission, or any other cause; and
 - (3) Shall fill any vacancy for the remainder of its term.
- (b) Each city board or commission shall:
 - (1) Hold regular monthly meetings;
 - (2) Keep minutes of its meetings and records of its transactions, which are publicly available;
 - (3) Appoint a chair, vice-chair and secretary (who may be a city employee);
 - (4) Conduct its meetings under Robert's Rules of Order, Newly Revised (2000), unless the board or commission adopts other rules of meeting procedure;
 - (5) Hold all meetings open to the public, after full and timely notice of date, time, place and subject matter of the meeting, and provide an opportunity for public comment at the meeting; and
 - (6) Unless otherwise provided by law, conduct all quasi-judicial hearings under the procedures prescribed by chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981.

¹ Adopted by Ordinance Nos. 4629, 4651. Amended by Ordinance No. 4722. Derived from Ordinance Nos. 2548, 3280, 3521, 3712, 3750, 3814, 3940, 3950, 3967, 4000, 4168, 4169, 4170, 4171, 4276, 4437, 4504.

² For prohibited conflicts of interest, see chapter 2-7, "Code of Conduct," B.R.C. 1981.

(c) Unless otherwise provided by law, three members of each board constitute a quorum, and each board or commission shall act only on an affirmative vote of at least three members.

(d) Unless otherwise provided by law, each city board or commission is authorized to:

(1) Hold special meetings at any time upon the call of a quorum and after at least twenty-four hours' notice to members and as much public notice as is practicable under the circumstances;

(2) Administer oaths;

(3) Adopt rules interpreting its legislative duties under this code and establishing procedures in aid of its functions; and

(4) Issue subpoenas to require the presence of persons and the production of writings, papers, books, documents, records or tangible things necessary to its proceedings.

(A) The secretary of the board or commission shall issue subpoenas upon written request therefor.

(B) Subpoenas shall be served in accordance with the provisions of Colorado Rules of Civil Procedure 45(c), except that no witness fees or mileage shall be paid.

(C) No person shall fail to obey a subpoena issued by the board or commission.

(e) Except as otherwise provided by law, all members of city boards and commissions shall serve without pay, shall serve until their successors take office, and shall not hold any other office in the city, but the secretary of any board or commission may be a city employee.

(f) If a member of a city board or commission is present at a meeting and refuses to vote, the member's vote shall be recorded in the affirmative. No member is excused from voting except on approving minutes of a meeting that the member did not attend or on a matter creating a conflict of interest under chapter 2-7, "Code of Conduct," B.R.C. 1981, or on consideration of such member's conduct in the business of the board or commission.

(g) If a city board or commission listed in this chapter, or the city council, the Boulder Municipal Property Authority or an advisory body to a general improvement district, gives posted notice of a public meeting other than a notice required to be posted on affected property, in addition to any other place where such notice is posted, the notice shall be posted on the bulletin board in the first floor lobby of the municipal building located on the southwest corner of Broadway and Canyon. It shall not be necessary for any of these bodies to designate this place for posting annually. Except in cases of emergency meetings, such notice, if posted, shall be posted at least twenty-four hours in advance of the meeting. Notice posted pursuant to this subsection shall be full and timely notice, but no meeting shall be deemed not to have been preceded by full and timely notice merely because notice was not posted as allowed in this subsection so long as full and timely notice was given by some other means.

Ordinance Nos. 5621 (1994); 7202 (2002)

2-3-2. Arts Commission.

(a) The City of Boulder Arts Commission consists of five members appointed by the city council for five-year staggered terms, all of whom are city electors.

(b) The commission's functions include, without limitation:

(1) To promote and encourage the development and public awareness of and interest in the fine and performing arts in the city;

(2) To advise the city council in connection with all matters relating to the artistic and cultural development of the city;

(3) To perform such other functions associated with the arts as the council may from time to time direct;

- (4) To make recommendations to the council with respect to annual budget appropriations for the arts;
 - (5) To assist in the preparation of applications for grants or other sources of funding for arts programs for the city;
 - (6) To administer the city arts grant program and other city arts programs pursuant to any authority provided therefor by ordinance of the council; and
 - (7) To advise and consult with local arts groups as requested by such groups or by the council.
- (c) The commission is not authorized to issue subpoenas.

Ordinance No. 5541 (1993)

2-3-3. Beverage Licensing Authority.

(a) The City of Boulder Beverage Licensing Authority consists of five members serving five-year staggered terms, all of whom are city electors. The council shall appoint members at a regular meeting in March of every year. The council shall adjust terms as needed to stagger the terms. Vacancies shall be filled for the remainder of the term.

(b) The city manager shall serve as secretary to the authority. The secretary may be known as the licensing clerk, and shall serve as the authority's agent for all functions.

(c) The authority's functions are:

- (1) To grant or refuse applications for licenses to sell malt, vinous or spirituous liquor and fermented malt beverages;
- (2) To conduct investigations;
- (3) To suspend or revoke such licenses for cause;
- (4) To perform all other acts or duties required to carry out the purposes of the state and city liquor and fermented malt beverage licensing laws; and
- (5) To perform all other responsibilities that the council may delegate to it.

(d) The city manager shall issue all licenses granted by the authority upon receipt of the license fees prescribed by sections 4-20-2, "Alcohol and Fermented Malt Beverage License and Application Fees," and 4-20-12, "Local Improvement District Fees," B.R.C. 1981.

(e) Sections 1-3-3, "Notice of Agency Action," 1-3-4, "Exception for Emergencies," and subsections 1-3-5(a) and (c), B.R.C. 1981, do not apply to hearings conducted by the authority.

(f) The city council shall establish and adopt by resolution rules of procedure for the authority.

(g) The authority may adopt supplemental rules of procedure provided that the authority's supplemental rules shall not be in conflict with those adopted by the city council.

Ordinance Nos. 5347 (1990); 5440 (1992); 7457 (2006)

2-3-4. Board of Building Appeals.

(a) The City of Boulder Board of Building Appeals consists of the five members of the Board of Zoning Adjustment, who shall sit as the Board of Building Appeals.

(b) The chief city building official and the city fire chief shall be advisory members of the board without vote. The city manager shall be secretary of the board.

(c) In addition to any other duties the council may prescribe, the responsibility of the board is to hear appeals by any person as provided in section 9-9-21, "Signs," chapters 10-2, "Property Maintenance Code," 10-5, "Building Code,"

10-6, "Electrical Code," 10-7, "Energy Conservation and Insulation Code," 10-8, "Fire Prevention Code," 10-9, "Mechanical Code," 10-10, "Plumbing Code," and 10-12, "Mobile Homes," B.R.C. 1981.

Ordinance Nos. 5382 (1991); 7109 (2001); 7724 (2010)

2-3-5. Downtown Management Commission.

(a) The City of Boulder Downtown Management Commission consists of five members appointed by the city council for five-year terms. The commissioners who are first appointed shall be designated to serve for staggered terms, so that the term of one commissioner expires each year. A member must wait one year after terminating service to be eligible for reappointment, except for the commissioners first appointed and members reappointed after a partial term of one year or less. Three members shall be owners of taxable real or personal property located in the area contained in the Central Area General Improvement District or representatives of owners of such property. Two members shall be citizens of the city at large.

(b) The secretary of the commission may be a member of the commission or may be a city staff member. Three members of the commission constitute a quorum. An affirmative vote of at least three members is necessary to authorize any action of the commission.

(c) Annually, the commission shall select a chair and a vice-chair from among its members. The commission may appoint such subcommittees and task forces as it deems appropriate. The commission shall consult regularly with the city manager in all matters relating to employees performing services for the commission. The manager shall be the appointing authority and shall determine the qualifications, duties, performance evaluation and compensation of all employees performing services for the commission, after receiving the advice of the commission. The manager shall appoint an executive director of the commission to coordinate its functions. The commission shall utilize the services of the city attorney for such legal services as it may require, subject to the provisions of charter section 85, "City attorney," concerning appointment of special counsel by the city council.

(d) The functions of the commission are to:

(1) Exercise, subject to call up by the city council acting as the Board of Directors of the Central Area General Improvement District as provided in subsection (e) of this section, and subject to the limitations of subsection (f) of this section, the following powers of said Board of Directors in furthering the purposes specified in Ordinance No. 3644 (1970), as amended, to provide parking and related improvements for CAGID:

(A) Acquisition, construction, installation, maintenance, operation, improvement and repair of the improvements of CAGID and of all property, rights and interests incidental or appurtenant thereto;

(B) Management, control and supervision of all of the business affairs of CAGID and the installation, construction, operation, replacement, maintenance, repair and improvement of the property and improvements of CAGID;

(C) Determination, imposition, redetermination and revision of a schedule of user charges for the use of the parking facilities provided or furnished by CAGID, as well as the determination of reasonable penalties, interest, collection costs and other charges for delinquencies in payment of such charges, following the procedures of subsections 8-4-15(c), (e) and (f), B.R.C. 1981, in so doing, but nothing in this section shall authorize the commission to set the times or rates for on-street metered parking, or the fines or penalties for parking infractions specified in chapter 7-6, "Parking Infractions," B.R.C. 1981;

(D) Hearing appeals pursuant to subsection 8-4-16(b), B.R.C. 1981;

(E) Acceptance of responsibility to maintain and repair public property located in but not owned by CAGID that is beneficial to the purposes of CAGID;

(F) Contracting with the city to administer CAGID's program and operations;

(G) Copyrighting designs used for or by CAGID;

- (H) Leasing district parking facilities, including, without limitation, retail space, but no such lease shall be valid if tax free bonds of CAGID for the construction or acquisition of the facility are still outstanding and such lease would imperil tax free status;
- (2) Perform the duties of an advisory committee to the city council acting as the CAGID Board of Directors as specified in subsection 8-4-10(c), B.R.C. 1981;
- (3) Exercise all powers given it by chapter 4-11, "Mall Permits and Leases," B.R.C. 1981;
- (4) Function as an advisory body to the city council in the consideration or implementation of any downtown development authority or urban renewal authority having jurisdiction over any part of the Central Area General Improvement District.
- (5) In addition, the commission shall be permitted, to the extent budgeted, to expend funds appropriated to the commission for maintenance of data concerning and for promotion of events in CAGID. This power shall include, without limitation, coordination of efforts of merchants and property owners and promotion of common plans of action and facilitation of transportation, parking, urban design, communications and quality of life improvements in CAGID. However, the commission shall not engage in any anticompetitive practice or discourage any person from locating any legal business in any particular place.

(e) Upon taking action, the commission shall forward a copy of its action to the city council, including the nature of the action and the reasons for taking it and any conditions that the commission has imposed. Such action shall take effect as provided by the commission. At the next council meeting held at least five days after delivery of the action to all council members, the council may call up the action for de novo review, consideration or hearing, which constitutes a revocation of the action. At the review, consideration or hearing held on the action, which shall be at the next meeting of the council unless the council by motion determines otherwise, the council shall make a final decision concerning what action shall be taken.

(f) The commission shall recommend to the city manager and the city council, and the council shall approve, a line item budget. Subject to city purchasing procedures, the commission may authorize expenditures within such line items, including, without limitation, contracts for services. The commission may not make any budgetary appropriation or encumbrance and shall not incur any debt or purchase or initiate construction of any parking, and all such matters are left in the full discretion of the city council. In the event that the commission desires at any time to cease utilizing the services of the city for any purposes for which it has contracted for such services, it will present such issue to the city council for final determination.

(g) The commission is authorized to issue subpoenas only in quasi-judicial proceedings.

Ordinance Nos. 4806 (1984); 5085 (1987); 5453 (1992)

2-3-6. Human Relations Commission.

(a) The City of Boulder Human Relations Commission consists of five members appointed by the city council for five-year terms, or as long a lesser term as possible in staggering the terms, and includes as much as practicable members reflecting the various social, economic, ethnic, racial and religious segments of the city.

(b) Repealed.

(c) The functions of the commission are to foster mutual respect and understanding and to create an atmosphere conducive to the promotion of amicable relations among all members of the city's community, to serve as a vehicle through which citizens can convey their suggestions on city policies with respect to social problems, to be sensitive to the social needs of citizens and to advise and assist the city government in relating human and social services to the needs of the city residents. In addition to other tasks that the city council may assign to it, the commission shall:

- (1) Study, prepare and recommend to the council a plan of long and short range priorities and specific legislation or programs to alleviate problems of human relations including programs administered by the city to promote better human relations;

- (2) Upon request of the council or the city manager or upon its own initiative, advise the council or manager on the social and human relations impact of proposals to be acted upon by the council or upon areas to which the council's attention should be directed;
- (3) Develop and conduct programs and activities, alone or in cooperation with government agencies or community groups, designed to increase good will among citizens of the city, eliminate discrimination and open new opportunities for all citizens in all phases of community life;
- (4) Hold hearings and issue orders as provided in chapter 12-1, "Prohibition of Discrimination in Housing, Employment and Public Accommodations," B.R.C. 1981;
- (5) Advise, coordinate and consult with the city manager on programs and activities concerning the city's department of housing and human services and the human rights ordinance, chapter 12-1, "Prohibition of Discrimination in Housing, Employment and Public Accommodations," B.R.C. 1981, and complement and assist those programs and activities;
- (6) Conduct public hearings and inquire into incidents of division and conflict on issues of human relations and attempt to correct them by issuing public reports and recommending to appropriate agencies, public and private, implementation of actions necessary or helpful to eliminate such division and conflict; and
- (7) Consider, investigate, study and make recommendations regarding any contemplated or proposed action by any federal, state or municipal government, or any agency or instrumentality thereof, that may have an effect on human relations in the community.

Ordinance Nos. 4879 (1985); 4805 (1984); 5099 (1988)

2-3-7. Landmarks Board.

(a) The City of Boulder landmarks board consists of five members appointed by the city council for five-year terms, two of whom are architectural or urban planning professionals and three of whom may be chosen without limitation. The planning board shall appoint one of its members to attend the landmarks board meeting without a vote and advise the landmarks board.

(b) The board's responsibilities are:

- (1) To initiate designations of landmarks and historic districts;
- (2) To hold public hearings on proposed designation of landmarks and historic districts and approve, modify or disapprove such proposals;
- (3) To hold public hearings on applications for landmark alteration certificates and approve, modify or disapprove the applications; and
- (4) To approve structures of historical, architectural or aesthetic merit and to encourage the protection, enhancement, perpetuation and use of any such structures.

(c) The board is not authorized to issue subpoenas.

(d) The mayor, with the consent of the city council, may appoint former board members as alternates to hear matters under chapter 9-11, "Historic Preservation," B.R.C. 1981, when the mayor finds that there is a conflict of interest under chapter 2-7, "Code of Conduct," B.R.C. 1981. An alternate board member may be appointed pursuant to the following standards and procedures:

- (1) The board member with the conflict of interest shall inform the board at a meeting prior to the meeting when the item where such conflict exists is to be considered;
- (2) If the board finds it necessary to appoint an alternate board member as set forth above, the board shall request that the mayor appoint an alternate member from among the former members of the board; and

- (3) The alternate board members shall only be authorized to act upon the matters that have been requested by the full board.

Ordinance No. 5712 (1995); 7522 (2007)

2-3-8. Library Commission.

(a) The library commission of the City of Boulder consists of five members appointed by the city council for five-year terms.

(b) The functions of the commission are under the direction of the city manager to control the operations of the public library, leases of grounds or buildings for library purposes, administration of books and other resources entrusted to the library and management and custody of real and personal property acquired by loan, purchase, lease, gift, devise or bequest for the library.

(c) The commission is authorized to:

- (1) Make and enforce all rules and regulations for the administration, government and protection of the library and all real and personal property belonging thereto or loaned or leased thereto;
- (2) Administer any trust created for the library;
- (3) Define powers and prescribe duties of all officers and employees of the library;
- (4) Borrow, lease, purchase and accept books, journals, publications, supplies and equipment for the library;
- (5) Order payment from library funds for any liability or authorized expenditure of the library;
- (6) Establish library branches and reading rooms meeting the needs of the city; and
- (7) Make annual reports to the city council, including a statement of the number of books and periodicals on hand, the number of visitors and such other information as the city manager may request.

(d) The commission is not authorized to issue subpoenas.

2-3-9. Open Space Board of Trustees.

(a) Creation of the Open Space Board of Trustees: There shall be an open space board of trustees consisting of five members appointed by the city council for five-year terms. The members of the board shall be residents of the city, shall not hold any other office in the city and shall serve without pay.

(b) Functions of the Board: The open space board shall not perform any administrative function unless expressly provided in this code. The board:

- (1) Shall make recommendations to the city council concerning any proposed disposal of open space lands pursuant to subsection (e) of this section;
- (2) Shall make recommendations to the city council concerning any expenditure or appropriation from the open space fund pledged pursuant to the vote of the electorate on November 7, 1967, November 7, 1989 and November 4, 1997 or proceeds of property acquired with the assets of the fund;
- (3) Shall make recommendations to the city council concerning any land that is to be placed under the direction, supervision or control of the department of open space and mountain parks, including, without limitation, recommendations concerning use policies on, planned uses of and restrictions on uses of, open space land;
- (4) Shall make recommendations to the city council concerning the open space program;
- (5) Shall review the open space elements of the Boulder Valley Comprehensive Plan and make recommendations concerning any open space related changes to the plan;

- (6) Shall pursue vigorously the implementation of the open space elements of the Boulder Valley Comprehensive Plan and the acquisition of additional property required to fulfill the goals of the open space program;
- (7) Shall review the city manager's proposed budget as it relates to open space matters and submit its recommendations concerning said budget to the city council;
- (8) Shall make recommendations concerning the grant or denial of any nonexclusive license or permit in or on open space land;
- (9) Shall make recommendations concerning the incurring of any indebtedness payable from the open space fund, pursuant to charter section 97; and
- (10) May prepare and submit to the city council, the city manager or the open space and mountain parks department recommendations on any other matter relating to the open space program, and may request and obtain from the open space and mountain parks department and the city manager information relating thereto.

(c) Board Recommendations: The city council, the city manager and the open space and mountain parks department shall not act on any of the matters set forth in paragraphs (b)(1) through (b)(9) of this section without securing a recommendation from the board as above provided; however, the council, the manager and the department may act on the matters set forth in paragraphs (b)(2) through (b)(9) of this section without a board recommendation if the board fails to submit its recommendation within thirty days after request therefor is made by the council.

(d) Open Space Purposes - Open Space Land: Open space land shall be acquired, maintained, preserved, retained and used only for the following purposes:

- (1) Preservation or restoration of natural areas characterized by or including terrain, geologic formation, flora or fauna that are unusual, spectacular, historically important, scientifically valuable or unique or that represent outstanding or rare examples of native species;
- (2) Preservation of water resources in their natural or traditional state, scenic areas or vistas, wildlife habitats or fragile ecosystems;
- (3) Preservation of land for passive recreational use, such as hiking, photography or nature studies, and, if specifically designated, bicycling, horseback riding or fishing;
- (4) Preservation of agricultural uses and land suitable for agricultural production;
- (5) Utilization of land for shaping the development of the city, limiting urban sprawl and disciplining growth;
- (6) Utilization of non-urban land for spatial definition of urban areas;
- (7) Utilization of land to prevent encroachment on floodplains; and
- (8) Preservation of land for its aesthetic or passive recreational value and its contribution to the quality of life of the community.

Open space land may not be improved after acquisition unless such improvements are necessary to protect or maintain the land or to provide for passive recreational, open agricultural or wildlife habitat use of the land.

(e) Disposal of Open Space Land:

- (1) No open space land owned by the city may be sold, leased, traded or otherwise conveyed, nor may any exclusive license or permit on such open space land be given, until approval of such disposal by the city council. Such approval may be given only after approval of such disposal by the affirmative vote of at least three members of the open space board of trustees after a public hearing held with notice published at least ten days in advance in a newspaper of general circulation in the city, giving the location of the land in question and the intended disposal thereof. No open space land owned by the city shall be disposed of until sixty days following the date of city council approval of such disposal. If, within such sixty-day period, a petition meeting

the requirements of charter section 45 and signed by registered electors of the city to the number of at least five percent of the registered electors of the city as of the day the petition is filed with the city clerk, requesting that such disposal be submitted to a vote of the electors, such disposal shall not become effective until the steps indicated in charter sections 46 and 47 have been followed.

- (2) This section shall not apply to agricultural leases for crop or grazing purposes for a term of five years or less.
- (3) This section is to be construed liberally in favor of providing opportunities for the citizens of the city to refer measures proposing the disposal of any open space land.
- (4) In making recommendations to the city council regarding acquisition or disposition of open space land, the board shall consider the purposes set forth in subsection (d) of this section and the following:
 - (A) The land use goals of the city;
 - (B) The quality of life of the residents of the city;
 - (C) Land as a finite resource with limited carrying capacity; and
 - (D) The potential cost to the city of the land after its acquisition or disposition.

Ordinance No. 7291 (2003)

2-3-10. Parks and Recreation Advisory Board.

- (a) The City of Boulder Parks and Recreation Advisory Board consists of seven members, appointed by the city council for five-year terms.
- (b) The city manager shall serve as secretary to the board.
- (c) Four members of the board constitute a quorum. The board may only act on an affirmative vote of at least a majority of all members present at a meeting. Three members of the board may call a special meeting.
- (d) The board's functions are:
 - (1) To approve or disapprove proposals concerning the disposal of park lands and forward such recommendations to the city council;
 - (2) To approve or disapprove expenditures or appropriations from the permanent park and recreation fund and forward such recommendations to the city council;
 - (3) To make recommendations to the council concerning the grant or denial of any license or permit in or on park lands;
 - (4) To make recommendations to the council concerning protection and maintenance of park lands;
 - (5) To review the city manager's proposed annual budget relating to parks and recreation matters and submit its recommendations concerning that budget to the council;
 - (6) At the request of the council, the city manager or the department of parks and recreation, to prepare and submit to the council, manager or department, recommendations on any additional park and recreation matters; and
 - (7) To request information and recommendations from the department of parks and recreation pursuant to the provisions of charter section 155.
- (e) The board is not authorized to issue subpoenas.

Ordinance No. 5039 (1987)

2-3-11. Planning Board.

- (a) The City of Boulder Planning Board consists of seven members appointed by the city council for five-year terms.
- (b) The secretary of the board may be a member of the board or may be the city manager.
- (c) Four members of the board constitute a quorum. An affirmative vote of at least four members is necessary to authorize any action of the board.
- (d) The chair and at least two members may call special meetings.
- (e) The board's functions are those established in the charter, this code and other ordinances of the city, including, without limitation:
 - (1) To review and approve or disapprove changes to the Boulder Valley Comprehensive Plan;
 - (2) To review and recommend to the city council regarding proposed historic districts as prescribed by section 9-11-5, "Landmarks Board Designation Public Hearing," B.R.C. 1981;
 - (3) To review and recommend to the city council regarding the city's capital improvements plan; and
 - (4) To perform all the functions prescribed by title 9, "Land Use Code," B.R.C. 1981.

Ordinance No. 4803 (1984)

2-3-12. Board of Zoning Adjustment and Building Appeals.

- (a) The City of Boulder Board of Zoning Adjustment and Building Appeals consists of five members appointed by the city council for five year terms.
- (b) The board's functions are to:
 - (1) Review and decide at the request of any interested person, any question of interpretation by the city manager of section 9-6-1, "Schedule Of Permitted Land Uses," or 9-7-1, "Schedule Of Form And Bulk Standards," B.R.C. 1981;
 - (2) Hear and decide to grant or deny applications for variances from the setback requirements of section 9-7-1, "Schedule Of Form And Bulk Standards," B.R.C. 1981, and the size and parking setback requirements for accessory dwelling units of subparagraph 9-6-3(a)(2)(B), B.R.C. 1981;
 - (3) Hear and decide referrals from the planning department or appeals from applicants or interested parties regarding changes or expansion in nonconforming buildings or lots, as provided in section 9-2-14, "Site Review," B.R.C. 1981;
 - (4) Hear and decide applications for exceptions under the solar access ordinance, section 9-9-17, "Solar Access," B.R.C. 1981;
 - (5) Hear and decide appeals of orders from the city manager under the sign code, section 9-9-21, "Signs," B.R.C. 1981;
 - (6) Hear and decide appeals of alterations and modifications related to mandatory green building practices and green points awards under Section 10-7.5-6, "Alteration or Modification," B.R.C. 1981;
 - (7) Sit as the Board of Building Appeals pursuant to section 2-3-4, "Board Of Building Appeals," B.R.C. 1981; and
 - (8) Hear and decide such other matters as the city council may by ordinance provide.

Ordinance Nos. 4803 (1984); 5034 (1987); 7109 (2001); 7565 (2007)

2-3-13. Firefighters' Pension Fund Board of Trustees.

(a) The City of Boulder Firefighters' Pension Fund Board of Trustees consists of the mayor, the director of finance and record, an appointee by the city council for a three-year term, and three members of the fire department hired before April 8, 1978, elected for a term of three years by the members of the fire department hired before April 8, 1978. The board shall elect from its members a president and a secretary.

(b) The board's functions are:

- (1) To supervise the city's and firefighters' contributions to the fund and the investment of all monies in the fund;
- (2) To hear and decide all applications for relief or pensions from the fund.

(c) The decision of the board on such contributions and applications for relief or pensions is final and conclusive, unless the board grants a rehearing in a particular case.

(d) The board need not hold monthly meetings.

(e) Four members of the board constitute a quorum, and the board shall only act on an affirmative vote of at least four members.

(f) The director of finance and record is ex officio treasurer of the board.

(g) The board shall make all necessary rules and regulations for managing and discharging its duties and for its own government and procedure and for the preservation and protection of the fund.

(h) A record of all matters coming properly before the board shall be kept and preserved.

Ordinance No. 4995 (1986)

2-3-14. Transportation Advisory Board.

(a) The City of Boulder Transportation Advisory Board consists of five members appointed by the city council for five-year terms.

(b) The responsibilities of the board are:

- (1) To advise the city manager, the planning board and the city council concerning any transportation matter, except as set forth in subsection (c) of this section.
- (2) To review all city transportation environmental assessments and capital improvements.
- (3) To review, monitor and propose changes to the Transportation Master Plan for the Boulder Valley, including, without limitation, policies for automobiles, pedestrians, bicycles, transit, parking and greenways.
- (4) To work with individual citizens, neighborhood groups and transportation staff to develop and recommend criteria by which to guide neighborhood traffic mitigation projects.
- (5) To advise the city council and the planning board concerning alternative transportation programs and to track the modal shift goal of the transportation master plan.
- (6) To review and provide recommendations to the city manager concerning policy issues on operating programs, including, without limitation, traffic engineering, parking and alternative transportation.

(c) The board shall not involve itself in any review under the land use regulation, title 9, "Land Use Code," B.R.C. 1981, unless its opinion is requested by the city council.

(d) Prior to making any recommendation, the board shall hold a public hearing.

- (e) The board is not authorized to issue subpoenas.

Ordinance Nos. 5216 (1989); 5506 (1992)

2-3-15. Water Resources Advisory Board.

(a) The City of Boulder Water Resources Advisory Board consists of five members appointed by the city council for five-year terms.

(b) The responsibilities of the board are to advise the city manager, the planning board and the city council concerning the following water resources matters managed by the utilities division:

- (1) To review all environmental assessments and capital improvements conducted or proposed by the utilities division.
- (2) To review, monitor and propose changes to the city's raw water, treated water, wastewater and flood control master plans.
- (3) To review and provide recommendations to the city manager concerning policy issues on operating programs, including, without limitation, water conservation, water treatment plant residuals, wastewater treatment plant biosolids disposal and water quality.

(c) The board shall not involve itself in any review under the land use regulation, title 9, "Land Use Code," B.R.C. 1981, unless its opinion is requested by the city council.

(d) Prior to making any recommendation, the board shall hold a public hearing.

(e) The board is not authorized to issue subpoenas.

Ordinance Nos. 5516 (1992); 5789 (1996)

2-3-16. Environmental Advisory Board.

(a) The City of Boulder Environmental Advisory Board consists of five members appointed by the city council for five-year terms.

(b) The responsibilities of the board are:

- (1) To advise the city council and the city manager concerning waste management and recycling, energy efficiency, environmental risks and pollution control, except as already assigned to other boards and commissions.
- (2) To advise the city council concerning an appropriate advocacy role for the City in state, regional and federal environmental matters.
- (3) To advise the affected board and the city council concerning the effects on the environment of any proposed City master plan or revision.

(c) The board shall not become involved in an environmental issue not specified by subsection (b) of this section except as authorized by the city council.

(d) The board shall not involve itself in any review under the land use regulations, title 9, "Land Use Code," B.R.C. 1981, unless its opinion is requested by the city council.

(e) The board shall not become involved in city environmental assessments unless requested to do so by the city council.

(f) Prior to making any recommendation, the board shall hold a public hearing.

- (g) The board is not authorized to issue subpoenas.

Ordinance No. 5505 (1992)

2-3-17. City of Boulder Public Access and Educational Channel Advisory Commission.

Repealed.

Ordinance Nos. 5705 (1995); 5859 (1997)

2-3-18. Design Advisory Board.

(a) The City of Boulder design advisory board consists of five members appointed by the city council for five year terms, at least two of whom are design professionals and three of whom may be chosen without limitation. The purpose of the board is to encourage thoughtful, well-designed development projects that are sensitive to the existing character of an area or the character established by adopted design guidelines or plans for the area.

(b) The board's functions are to:

- (1) Review projects for compliance with the most recent Downtown Urban Design Plan, and provide comments to persons responsible for designing and developing downtown projects having a valuation of \$25,000.00 or more involving the construction of a new building or exterior work on an existing building;
- (2) Review projects for compliance with the most recent Downtown Urban Design Plan and provide comments to persons responsible for designing, developing and approving downtown projects that require a discretionary development review, pursuant to chapter 9-2, "Review Processes," B.R.C. 1981; and
- (3) Advise and make recommendations for approval or disapproval of amendments to the most recent Downtown Urban Design Plan to the planning board, the city manager and the city council.

(c) The board shall use the guidelines set forth in the most recent Downtown Urban Design Plan to review projects in those areas described on the "Downtown Area Map" as the historic commercial area, the non-historic downtown area and the interface area.

(d) Projects that require a review by the landmarks board are exempt from a review by the design advisory board.

(e) The board shall not involve itself in any review under title 8, "Parks, Open Space, Streets and Public Ways," 9, "Land Use Code," or 10, "Structures," B.R.C. 1981, unless its opinion is requested by the city manager, planning board or city council. The purpose of such review is to encourage thoughtful, well-designed development projects that are sensitive to the existing character of an area or the character established by adopted design guidelines or plans for the area.

(f) Prior to making any recommendation, the board shall hold a public hearing.

(g) The board is not authorized to issue subpoenas.

Ordinance Nos. 5963 (1998); 7788 (2011)

2-3-19. Resident Commissioner for the Housing Authority.

Pursuant to § 29-4-205, C.R.S., the city council is permitted to provide for the appointment of commissioners of the Housing Authority of the City of Boulder, also known as Boulder Housing Partners. One of such commissioners is required by federal regulation¹ to represent the residents of Housing Authority facilities, and it is preferable that the Resident Commissioner be elected by the residents of Housing Authority facilities. Accordingly, the city council hereby designates the President of the Resident Representative Council of the Housing Authority, certified from time to time by the Board of Commissioners of the Housing Authority, as the Resident Representative Commissioner member of the Board of Commissioners. The city council further determines that Resident Commissioner should serve for whatever term such person serves as President of the Resident Representative Council, notwithstanding the five year staggered terms

¹ 24 C.F.R. § 964.430.

served by other Housing Authority Commissioners. The city council hereby limits the participation of the Resident Commissioner in matters before the Board of Commissioners to public housing and section 8¹ matters, not involving the management of the housing development in which such person resides. The President of the Resident Representative Council may designate any officer of the council to act as an alternate Resident Commissioner when the President is unable to attend Housing Authority meetings.

Ordinance No. 7218 (2002)

2-3-20. University Hill Commercial Area Management Commission.

(a) The City of Boulder University Hill Commercial Area Management Commission ("Commission,") consists of five members appointed by the City Council for five-year terms. The commissioners who are first appointed shall be designated to serve for staggered terms, so that the term of one commissioner expires each year. A member must wait one year after terminating service to be eligible for reappointment, except for the commissioners first appointed and members reappointed after a partial term of one year or less. Three members shall be owners of taxable real or personal property located in the area contained in the University Hill General Improvement District ("UGHID") or representatives of owners of such property. Two members shall be citizens of the City at large.

(b) The secretary of the Commission may be a member of the Commission or may be a city staff member. Three members of the Commission constitute a quorum. An affirmative vote of at least three members is necessary to authorize any action of the Commission.

(c) Annually, the Commission shall select a chair and a vice-chair from among its members. The Commission may appoint such subcommittees and task forces as it deems appropriate. The manager shall appoint an executive director of the Commission to coordinate its functions. The Commission shall utilize the services of the city attorney for such legal services as it may require, subject to the provisions of Charter Section 85, "City Attorney," concerning appointment of special counsel by the City Council.

(d) The functions of the Commission are to provide recommendations to:

(1) City Council acting as the Board of Directors of the UHGID in furthering the purposes specified in Section 8-4-11, "Powers of the District," B.R.C. 1981, Ordinance Numbers 3638, 4299 and 4958, as amended, to provide parking and related improvements for UHGID as follows:

(A) Acquisition, construction, installation, maintenance, operation, improvement and repair of the improvements of UHGID and of all property, rights and interests incidental or appurtenant thereto;

(B) Management, control and supervision of all of the business affairs of UHGID and the installation, construction, operation, replacement, maintenance, repair and improvement of the property and improvements of UHGID;

(C) Determination, imposition, re-determination and revision of a schedule of user charges for the use of the parking facilities provided or furnished by UHGID, as well as the determination of reasonable penalties, interest, collection costs and other charges for delinquencies in payment of such charges, following the procedures of subsections 8-4-15(c), (e) and (f), B.R.C. 1981, in so doing, but nothing in this section shall authorize the Commission to set the times or rates for on-street metered parking, or the fines or penalties for parking infractions specified in Chapter 7-6, "Parking Infractions," B.R.C. 1981;

(D) Leasing district parking facilities, including, without limitation, retail space, but no such lease shall be valid if tax-free bonds of UHGID for the construction or acquisition of the facility are still outstanding and such lease would imperil tax-free status; and

(E) A general description of the improvements to be constructed and installed within UHGID or outside the district for the special benefit of UHGID as follows: a general parking program to provide parking,

¹ 42 U.S.C.S. § 13619.

pedestrian, bicycles, mass transit, aesthetic and related improvements for the district area, which may include, but shall not be limited to:

- (i) Parking and off-street parking facilities;
 - (ii) Acquisition or lease of necessary land or interests therein, and improvements thereto in connection with said facilities both within and outside the district;
 - (iii) Other incidental and appurtenant facilities and improvements designed to improve parking and improve the convenience of the district area;
 - (iv) Pedestrian and bicyclist amenities, including benches, trees, landscaping, bike racks, signage, banners and trash receptacles;
 - (v) Improvements to increase the attractiveness and convenience of the district;
 - (vi) Incentive programs to encourage use of means of transportation to and from the district other than the under-occupied private automobiles; and
 - (vii) Maintenance of any of the above-described types of facilities and improvements located in the public right of way within the district.
- (2) Perform the duties of an advisory committee to the City Council acting as the UHGID Board of Directors as specified in Section 8-4-10, "Advisory Committee," B.R.C. 1981.
- (3) Function as an advisory body to the City Council acting as the UHGID Board of Directors in the consideration or implementation of any "Downtown Development Authority," as that term is defined in § 31-25-801, et seq., C.R.S. (Colorado Revised Statutes), or "Urban Renewal Authority," as that term is defined in § 31-25-101, et seq., C.R.S., or related entity having jurisdiction over any part of the UHGID.
- (4) In addition, the Commission shall undertake an advisory role to the City Council regarding the overall health and welfare of the University Hill Commercial Area and immediately adjacent areas, including the following:
- (A) Make recommendations for the creation and maintenance of data, studies and information concerning the University Hill Commercial Area in order to support and enhance the sustainability of UHGID and the University Hill Commercial Area. This power shall include, without limitation, coordination of collaborative efforts with University Hill Commercial Area merchants, business and property owners as well as other University Hill stakeholders including residents, students and the University of Colorado in the promotion of common plans of action and related to: transportation, parking, urban design, economic vitality, promotional activities, communications and quality of life improvements in UHGID and the University Hill Commercial Area;
 - (B) The Commission shall not recommend any anti-competitive practice or discourage any person from locating any legal business in any particular place;
 - (C) Advise on the overall vitality of the University Hill Commercial Area, including, but not limited to overall area marketing and economic vitality initiatives and events promoting the area;
 - (D) Include consideration of the long-term future and sustainability of the University Hill Commercial Area; and
 - (E) Make recommendations regarding vending carts as per Section 4-18-4, "University Hill Mobile Vending Cart Permit," B.R.C. 1981.
- (e) The Commission shall recommend a budget to the city manager, the City Council and the City Council acting as the UHGID Board of Directors. City Council may approve such budget. The Commission may not make any budgetary appropriation or encumbrance and shall not incur any debt or purchase or initiate construction of any parking, and all such matters are left in the full discretion of the City Council.

(f) For the purposes of this section, *University Hill Commercial Area* means the area as defined in Ordinance Numbers 3638, 4299 and 4958, and generally bounded by the south side of University Avenue, the west side of Broadway, the west side of 14th Street from College to the southern end of the UHGID-owned parking lot, the south side of College Avenue, the alley between 12th Street and 13th Street, including the pedestrian underpass at College Avenue and as illustrated on the map entitled "University Hill Commercial Area" incorporated into Ordinance Number 7579 as Exhibit A.

(g) *University Hill General Improvement District* or *UHGID* means the City of Boulder University Hill General Improvement District established by Ordinance Number 3638, as subsequently amended.

Ordinance No. 7579 (2008)

2-3-21. Boulder Junction TDM Commission.

(a) The commissioners of the initial commission shall be the five persons designated in the petition forming the Boulder Junction Access General Improvement District - TDM ("District" or "BJAGID - TDM") to serve for the stated terms. After the expiration of the terms of the initial commission, commissioners shall be appointed for five year terms by the city council acting as the board of directors. The Boulder Junction Parking Commission shall consist of five members. One ex officio nonvoting member may be appointed by the city manager as provided below. After a second term, a member must wait one year after service to be eligible for reappointment, except for the commissioners first appointed and members reappointed after a partial term of one year or less. Except for the initial commission, three members of the commission shall be owners of taxable real or personal property located in the area contained in the District or representatives of owners of such property and not required to be city electors. Two members shall be city electors, whether residing inside or outside of the district boundaries. So long as the City owns real property within the district boundary, other than property used by the District for the purposes of the District, and as a result is a real property owner similarly situated to other property owners in the District, there may be one ex officio nonvoting member appointed by the city manager to represent the interests of the City regarding such property.

(b) The secretary of the commission may be a member of the commission or may be a city staff member. Three members of the commission constitute a quorum. An affirmative vote of at least three members is necessary to authorize any action of the commission.

(c) Annually, the commission shall select a chair and a vice-chair from among its members. The commission may appoint such subcommittees and task forces as it deems appropriate. The commission shall consult regularly with the city manager ("manager") in all matters relating to employees performing services for the commission.

(d) The city manager is the ex officio general manager of the District and is responsible for the executive, operational and administrative functions of the District, including, without limitation, the following:

- (1) To manage, control and supervise all of the business affairs of the District, including, without limitation, installation, construction, operation, replacement, maintenance, repair and improvement of the property and improvements of the District and of all property, rights and interests incidental or appurtenant thereto;
- (2) To maintain and repair public property located in but not owned by the District that is beneficial to the purposes of the District;
- (3) To enter into contracts on behalf of the District;
- (4) To contract with the City to administer the District's program and operations;
- (5) To copyright, trademark or obtain other protections of designs used for or by District;
- (6) To lease district facilities, including, without limitation, retail space; and
- (7) To perform any such other duties and as may be required by the board of directors or by applicable law.

(e) The functions of the commission are to make decisions or provide recommendations of said board of directors in furthering the purposes of the District, as specified herein and in the petition to provide alternative modes of transportation related services and improvements for the District, including, without limitation, the following:

- (1) Exercise, subject to call up by the city council acting as the board of directors of the District, the following functions:
 - (A) To authorize the general manager to acquire property and construct improvements of the District;
 - (B) To determine, impose, re-determine and revise a schedule of user charges for the use of the services and improvements provided or furnished by the District, as well as the determination of reasonable penalties, interest, collection costs and other charges for delinquencies in payment of such charges, following the procedures of subsections 8-4-15(c), (e) and (f), B.R.C. 1981. Nothing in this section shall authorize the commission to set the times or rates for on-street metered parking, or the fines or penalties for parking infractions specified in chapter 7-6, "Parking Infractions," B.R.C. 1981;
 - (D) To hear appeals pursuant to subsection 8-4-16(b), B.R.C. 1981;
 - (E) To accept responsibility to maintain and repair public property located in but not owned by the District that is beneficial to the purposes of the District.
 - (F) To include or exclude property from the district boundaries pursuant to section 8-4-24, "Inclusion and Exclusion of Additional Property in District," B.R.C. 1981, subject to Section VIII.C(1) and (2) of the district petition, which section requires either a PILOT agreement or cooperation agreement upon inclusion and addresses how properties outside of the boundary are considered, and within the area defined in Phase One of the Transit Village Area Plan adopted on September 18, 2007.

Upon taking action, the commission shall forward a copy of its action to the city council, including the nature of the action and the reasons for taking it and any conditions that the commission has imposed. Such action shall take effect as provided by the commission.

At the next council meeting or the next meeting thereafter held at least five days after delivery of the action to all council members, the council may call up any action set forth in this paragraph (e)(1) other than subparagraph (e)(1)(F) for de novo review, consideration or hearing, which constitutes a revocation of the action. At the review, consideration or hearing held on the action, which shall be scheduled by the council, the council shall make a final decision concerning what action shall be taken.

- (2) Property taxes: The maximum mil levy authorized by the votes of the District is 20 mils. The mil levy authorized is higher than it is anticipated will be necessary for the services of the District unless it is determined that the District should construct improvements or issue debt. The mil levy shall be set annually by the board of directors as follows:
 - (A) The initial mil levy for property in the District commencing January 1, 2011, due and payable January 1, 2012, shall be 5 mils.
 - (B) After January 1, 2012, the mil levy may be increased to up to 10 mils and used for the operations of the District and to develop reserve funds.
 - (C) The mil levy may be increased from 10 mils and up to 20 mils if an opportunity arises for the District to participate in alternate transit modes, which may include acquiring interests in property or financing agreements, including, without limitation, issuance of debt. Prior to setting such tax in place, there shall be:
 - i. A public hearing before the commission; and
 - ii. At least three commission members affirmatively vote for such tax increase.

- (3) Authorize debt: The maximum debt authorized by the voters of the District is \$2,500,000.00, at a maximum interest rate of twelve percent and a maximum repayment cost of \$5,000,000.00. This amount is higher than anticipated will be necessary for the improvements. Prior to issuance of any bonds by the board of directors within such authorization, there shall be:
 - (A) A public hearing before the commission; and
 - (B) At least three commission members affirmatively vote in favor of incurring such debt.
- (4) Perform the duties of an advisory body to the city council acting as the district board of directors as specified in this section;
- (5) Function as an advisory body to the city council in the consideration or implementation of any overlaying taxing district or other body corporate and politic having jurisdiction over any part of the District.
 - (f) The general manager shall recommend to the commission and the board of directors a line item budget. Subject to city purchasing procedures, the commission may authorize expenditures within such line items, including, without limitation, contracts for services. The commission may not make any budgetary appropriation or encumbrance and shall not incur any debt or purchase or initiate construction of any parking, and all such matters are left in the full discretion of the city council. In the event that the commission desires at any time to cease utilizing the services of the City for any purposes for which it has contracted for such services, it will present such issue to the city council for final determination.
 - (g) The commission is authorized to issue subpoenas only in quasi-judicial proceedings.
 - (h) At any time during the life of the BJAGID - Parking and BJAGID - TDM, all or any of the commissioners may serve on both district commissions concurrently or sequentially.

Ordinance No. 7732 (2010)

2-3-22. Boulder Junction Parking Commission.

- (a) The commissioners of the initial commission shall be the five persons designated in the petition forming the Boulder Junction Access General Improvement District - Parking ("District" or "BJAGID - Parking") to serve for the stated terms. After the expiration of the terms of the initial commission, commissioners shall be appointed for five year terms by the city council acting as the board of directors. The Boulder Junction Parking Commission shall consist of five members. One ex officio nonvoting member may be appointed by the city manager as provided below. After a second term, a member must wait one year after service to be eligible for reappointment, except for the commissioners first appointed and members reappointed after a partial term of one year or less. Except for the initial commission, three members of the commission shall be owners of taxable real or personal property located in the area contained in the District or representatives of owners of such property and not required to be city electors. Two members shall be city electors, whether residing inside or outside of the district boundaries. So long as the City owns real property within the district boundary, other than property used by the District for the purposes of the District, and as a result is a real property owner similarly situated to other property owners in the District, there may be one ex officio nonvoting member appointed by the city manager to represent the interests of the city regarding such property.
- (b) The secretary of the commission may be a member of the commission or may be a city staff member. Three members of the commission constitute a quorum. An affirmative vote of at least three members is necessary to authorize any action of the commission.
- (c) Annually, the commission shall select a chair and a vice-chair from among its members. The commission may appoint such subcommittees and task forces as it deems appropriate. The commission shall consult regularly with the city manager ("manager") in all matters relating to employees performing services for the commission.
- (d) The city manager is the ex officio general manager of the District and is responsible for the executive, operational and administrative functions of the District, including, without limitation, the following:

- (1) To manage, control and supervise all of the business affairs of the District, including, without limitation, installation, construction, operation, replacement, maintenance, repair and improvement of the property and improvements of the District and of all property, rights and interests incidental or appurtenant thereto;
- (2) To maintain and repair public property located in but not owned by the District that is beneficial to the purposes of the District;
- (3) To enter into contracts on behalf of the District;
- (4) To contract with the City to administer the District's program and operations;
- (5) To copyright, trademark or obtain other protections of designs used for or by the District;
- (6) To lease district facilities, including, without limitation, retail space; and
- (7) To perform any such other duties and as may be required by the board of directors or by applicable law.

(e) The functions of the commission are to make decisions or provide recommendations to the board of directors in furthering the purposes of the District as specified herein and in the petition to provide alternative modes of transportation and parking related services and improvements for the District, including, without limitation, the following:

- (1) Exercise, subject to call up by the city council acting as the board of directors of the District, the following functions:
 - (A) To authorize the general manager to acquire property and construct improvements of the District;
 - (B) To determine, impose, re-determine and revise a schedule of user charges for the use of the services and improvements provided or furnished by the District, as well as the determination of reasonable penalties, interest, collection costs and other charges for delinquencies in payment of such charges, following the procedures of subsections 8-4-15(c), (e) and (f), B.R.C. 1981. Nothing in this section shall authorize the commission to set the times or rates for on-street metered parking, or the fines or penalties for parking infractions specified in chapter 7-6, "Parking Infractions," B.R.C. 1981;
 - (D) To hear appeals pursuant to subsection 8-4-16(b), B.R.C. 1981;
 - (E) To accept responsibility to maintain and repair public property located in but not owned by the District that is beneficial to the purposes of the District.
 - (F) To include or exclude property from the district boundaries pursuant to section 8-4-24, "Inclusion and Exclusion of Additional Property in District," B.R.C. 1981, subject to Section VIII C(1) and (2) of the district petition, which section requires either a PILOT agreement or cooperation agreement upon inclusion and addresses how properties outside of the boundary are considered, and within the area defined in Phase One of the Transit Village Area Plan adopted on September 18, 2007.

Upon taking action, the commission shall forward a copy of its action to the City Council, including the nature of the action and the reasons for taking it and any conditions that the commission has imposed. Such action shall take effect as provided by the commission.

At the next council meeting or the next meeting thereafter held at least five days after delivery of the action to all council members, the council may call up any action set forth in this paragraph (e)(1) other than subparagraph (e)(1)(F) for de novo review, consideration or hearing, which constitutes a revocation of the action. At the review, consideration or hearing held on the action, which shall be scheduled by the council, the council shall make a final decision concerning what action shall be taken.

- (2) Property Taxes: The maximum mil levy authorized by the voters of the District is 30 mils. The mil levy authorized is higher than it is anticipated will be necessary for the services of the District unless it is determined that the District should construct improvements or issue debt. The mil levy shall be set annually by the board of directors as follows:

- (A) The initial mil levy for property in the District commencing January 1, 2011, due and payable January 1, 2012, shall be 5 mils.
- (B) After January 1, 2012, the mil levy may be increased to up to 10 mils and used for the operations of the District, to develop reserve funds and to acquire property interests for parking.
- (C) The mil levy may be increased from 10 mils and up to 20 mils for any purpose authorized by the District. Prior to setting such tax in place, there shall be:
 - i. A public hearing before the commission; and
 - ii. At least three commission members affirmatively vote for such tax increase.
- (D) The mil levy may be increased from 20 mils and up to 30 mils to support issuance of debt of the District to acquire or develop parking facilities. Prior to setting such tax in place, there shall be:
 - i. A public hearing before the commission; and
 - ii. At least three commission members affirmatively vote for such tax increase.
 - iii. For purposes of this section, *parking facilities* includes acquisition of property interests, including, without limitation, purchase or lease, for temporary or permanent use as parking spaces at grade level or in a parking structure, which spaces may be available upon acquisition of the property interests or sometime in the future.

(3) Authorize debt: The maximum debt authorized by the voters of the District is \$13,000,000.00, at a maximum interest rate of twelve percent and a maximum repayment cost of \$32,000,000.00. This amount is higher than anticipated will be necessary for the improvements. Prior to issuance of any bonds by the board of directors within such authorization, there shall be:

- (A) A public hearing before the commission; and
- (B) At least three commission members affirmatively vote in favor of incurring such debt.

(4) Perform the duties of an advisory body to the city council acting as the district board of directors as specified in this section;

(5) Function as an advisory body to the city council in the consideration or implementation of any overlaying taxing district or other body corporate and politic having jurisdiction over any part of the District.

(f) The general manager shall recommend to the commission and the board of directors a line item budget. Subject to city purchasing procedures, the commission may authorize expenditures within such line items, including, without limitation, contracts for services. The commission may not make any budgetary appropriation or encumbrance and shall not incur any debt or purchase or initiate construction of any parking, and all such matters are left in the full discretion of the city council. In the event that the commission desires at any time to cease utilizing the services of the City for any purposes for which it has contracted for such services, it will present such issue to the city council for final determination.

(g) The commission is authorized to issue subpoenas only in quasi-judicial proceedings.

(h) At any time during the life of the BJAGID - Parking and BJAGID - TDM, all or any of the commissioners may serve on both district commissions concurrently or sequentially.

Ordinance No. 7731 (2010)

Chapter 4

Police Administration¹

2-4-1. Legislative Intent.

The purpose of this chapter is to define the duties and powers of the chief of police and city police officers and to provide a procedure for disposing of lost, abandoned or recovered stolen property.

2-4-2. Commissioning of Police Officers.

The city manager shall issue a commission card to each city police officer before the officer commences official duties, which identifies the holder as a currently employed city police officer.

2-4-3. General Duties of Police Officers.

(a) City police officers shall perform under the direction of the city manager and chief of police. Police officers shall possess all powers conveyed to peace officers under state statutes and to police or peace officers under municipal ordinances.

(b) Police officers shall investigate, make arrests, issue summonses, sign complaints and assist in prosecutions for violations of state or federal statutes and municipal ordinances. Police officers shall suppress all riots and breaches of the peace and apprehend persons fleeing from justice.²

2-4-4. Duties of the Chief of Police.

(a) Subject to the powers of the city manager pursuant to charter section 72, the chief of police shall have general charge and supervision of city police officers and be responsible for the administration of the city police department.

(b) The chief of police may establish rules and regulations, subject to the approval of the city manager, for the administration of the police department.

(c) The chief of police shall receive and retain on file all traffic accident reports made to the chief under state law or this code for use by the city manager or the Department of Motor Vehicles of the Colorado State Department of Revenue.

2-4-5. Custody of Lost, Abandoned and Recovered Stolen Property.

(a) The chief of police has custody of all lost, abandoned and recovered stolen personal property coming into the possession of the city. The chief shall keep a record of all property taken into custody, and shall, pending disposal of the property, cause the property to be stored on property owned or leased by the city or with a private person engaged in the business of storing personal property.

(b) If the finder of lost, abandoned or stolen property is an officer or employee of the city and takes possession of such property, the city shall be deemed the finder and the property shall be placed in the custody of the chief of police.

(c) Whenever a private person brings property to any city employee that the person has found, the property shall be placed in the custody of the chief of police. Upon the finder's making a report concerning the location and circumstances of the finding, the manager shall issue a receipt for the property, which shall declare the finder's contingent right to reclaim the possession thereof.

(d) Upon coming into possession of personal property that has no known owner, the chief of police shall make reasonable efforts to ascertain the ownership of the property.

(e) If the chief of police ascertains the owner of lost, abandoned or stolen personal property, except a motor vehicle, the chief shall give notice in writing to the owner that the property is in the possession of the police department, that it may now be reclaimed, and that it will be sold or otherwise disposed of by the city unless the owner reclaims the

¹ Adopted by Ordinance No. 4653. Amended by Ordinance No. 4704. Derived from Ordinance Nos. 1734, 2477, 4054, 4432.

² For the description of procedures to detain, charge, arrest, incarcerate, book, release, and use force, see sections 2-6-16 through 2-6-22, B.R.C. 1981.

property in the manner prescribed by law within sixty days after the date the notice is deposited in the mail, postage prepaid, to the owner at the owner's last known address.

(f) If the owner of the lost, abandoned or stolen property cannot be ascertained by the chief of police, the chief shall periodically, and not less than once each year, cause notice containing the following information to be published on three different days, with the last day of publication to be no less than ten days prior to the auction, in a newspaper of general circulation in the city:

- (1) Locations, electronic or physical, where descriptions of the lost, abandoned or stolen personal property then in the possession of the chief of police may be viewed; and
- (2) A statement that the property will be disposed of by the city or its designee unless the owner thereof reclaims the property in the manner provided for by law within ten days after the last publication of the notice.

(g) The chief of police may immediately dispose of any property that reasonably appears to pose a sanitary or health hazard if stored, and shall keep a log describing all property disposed of for these reasons.

(h) This section applies only to tangible personal property. Lost and found currency turned in to the chief of police by city employees or private persons shall be deemed tangible personal property.

Ordinance Nos. 5472 (1992); 7464 (2006)

2-4-6. Disposition of Property Other Than Motor Vehicles.

(a) If, at any time prior to the city's disposition of any found personal property, except a motor vehicle, in the manner provided by this section, a person claims to be the property owner, the chief of police shall return the property to such claimant if the claimant submits written evidence of ownership that is sufficient to satisfy the chief that the claim is rightful and if the claimant pays the city for all reasonable costs incurred by the city in obtaining possession of the property, storing the property and publishing or mailing notice relating to the property.

(b) If an apparent owner has not made claim to the property by the expiration of the time period set forth in the mailed or published notice, the finder of record shall be notified by mail that the finder has ten days to claim the property. If within said ten-day period, the finder makes a demand for the property and tenders payment to the city for all reasonable costs incurred by the city in connection with the possession, and storage, and publication and mailing of notices regarding the property, the property shall be returned to the finder.

(c) If the found personal property remains unclaimed after the time following the notice as required by subsections 2-4-5(e) and (f), B.R.C. 1981, and after giving the finder notice and opportunity to reclaim the property under this section, the city manager shall cause the property to be disposed of by sale, unless, upon the recommendation of the manager, the city council, by ordinance, motion or resolution, provides for a different manner of disposition.

(d) If property is to be disposed of by sale, the city manager shall:

- (1) Cause a notice of such sale to be published on three different days in a newspaper of general circulation in the city setting forth the date, time and place of the sale at least ten days after the last publication of notice of sale; locations, electronic or physical, at which descriptions of the property to be sold may be viewed; and a statement that the property will be sold at public auction to the highest bidder for cash;
- (2) At the date and place designated for the sale of said lost, abandoned or recovered stolen personal property described in the notice of sale, cause said property to be sold at public auction to the highest bidder for cash. No money or negotiable instruments shall be sold at such a sale; they shall become the property of the city if unclaimed by the owner thereof. If a bid is not made for an article of personal property offered at such sale, said article of personal property shall become the property of the city;
- (3) Utilize on-line auction procedures as an alternative to traditional auction procedures if the manager determines that such action is consistent with the objectives of this section. In the event that on-line auction procedures are used, newspaper publication and on-line item description provisions of this section shall be utilized to provide

notice of such on-line auctions in addition to, but not in lieu of, the notice procedures set forth in this section. In such instance, payment by credit card, debit card or equivalent means will be permitted;

- (4) Upon consummation of the sale of said lost, abandoned or recovered stolen property, issue a receipt to the successful bidder that indicates the article of personal property sold and the amount paid therefor. Upon exhibiting said receipt to the chief of police, the purchaser shall be entitled to possession of the article so purchased; and
- (5) Apply proceeds of the sale of said lost, abandoned or recovered stolen property first to costs of storage, towing, publication and other costs of the keeping and sale of said property, and place the balance of said proceeds in the general fund of the city.

(e) There is no right of redemption from a sale and conveyance of said lost, abandoned or recovered stolen property.

Ordinance No. 7464 (2006)

2-4-7. Disposition of Motor Vehicles.

The city manager may dispose of impounded motor vehicles in any of the following ways:

- (a) By following the procedures provided by state law¹ for disposal of abandoned vehicles; or
- (b) If the manager determines that some other method of disposal is more efficient, the manager may adopt such a method. Such method shall provide:
 - (1) Reasonable notice to the owner and any lienholders of record by mail or publication at least thirty days before disposition of the vehicle. But if the vehicle has been appraised to determine its reasonable market value by the chief of police, by any employee of the police department designated by the chief, or by a licensed Colorado motor vehicle dealer as having a value of less than \$200.00, then the vehicle may be disposed of no less than fifteen days after the date of the notice. Notice is deemed given on the date it is delivered, mailed or published, whichever is earliest. The notice shall indicate whether the holding period is fifteen or thirty days. Before giving notice, the manager shall make inquiry through the licensing authority of the state of registration of the vehicle, if that can be ascertained from the license plate or vehicle identification number, if any, as to the name and mailing address of the owner and lienholders of record. Notice shall be delivered or sent by first class or certified mail to such persons. If the manager's inquiries produce no information, the manager shall publish the notice at least once in a newspaper of general circulation in the city. The notice shall state the grounds upon which impoundment was authorized, the location of the vehicle and the person to whom the owner or lienholder may apply to reclaim the vehicle prior to its disposal. Notice given to the owner pursuant to subsection 7-7-2(b) or 7-7-3(d), B.R.C. 1981, satisfies the requirement of this section for notice to the owner.
 - (2) For disposition of the vehicle:
 - (A) If the vehicle has been appraised, and the towing and storage charges at the end of the applicable holding period exceed the appraised value, then the manager may sell the vehicle to the towing and impoundment lot operators, if such were involved, for the amount of the accrued charges;
 - (B) At a private sale; or
 - (C) At a public sale.
 - (3) For delivery of a bill of sale to the purchaser. The manager shall send a copy of such bill of sale, together with a written report of the sale, to the Colorado Department of Revenue. If the appraised value of the vehicle was less than \$200.00, or if, in the case of a vehicle sold without appraisal, the sale was for less than \$200.00, the bill of sale shall state that the vehicle is sold only for the purpose of junking or dismantling the vehicle, and

¹ § 42-4-1801 et seq., C.R.S.

that the purchaser acquires no right to a certificate of title for such vehicle. Such purchaser shall also be given a copy of the report which is sent to the Colorado Department of Revenue.

- (4) For disposition of the proceeds from a sale pursuant to subparagraph (b)(2)(B) or (b)(2)(C) of this section in the following manner:
 - (A) The costs of towing and storage in an impound lot shall be paid to the towing and impound lot operators in accordance with the contract such operators may have with the city for such services. Such contract may provide, without limitation, that the towing and impound lot operator will receive only a percentage of the proceeds, but not to exceed such costs. If such services were not performed pursuant to a contract with the city, payment shall be calculated in the manner provided by state law.
 - (B) From the balance, if any, there shall be deposited into the general fund of the city reasonable expenses to the city on account of the abandonment of the vehicle, including, without limitation, the costs of the search for owners and lienholders, notice, appraisal, advertising, sale and any other fees or penalties, including, without limitation, those on account of parking infractions pursuant to chapter 7-6, "Parking Infractions," B.R.C. 1981, due with respect to the vehicle.
 - (C) The remaining balance, if any, shall then be paid first to any lienholder of record and, second, to any owner of record as their interests may appear on such records, or to any person submitting proof of an enforceable interest in such vehicle as of the date of sale. If no such person is known to the manager, such balance shall be deposited into the general fund of the city.
 - (D) There is no right of redemption from any sale made pursuant to this section. After a vehicle has been sold pursuant to such terms, neither the city nor any officer, agent or employee thereof is liable for any failure to deliver such vehicle to any person other than the purchaser at such sale.

Ordinance Nos. 4917 (1985); 5039 (1987); 5848 (1996); 7190 (2002)

2-4-8. Holding Property as Evidence.

In the event that the city attorney, district attorney or other person charged with the duty of prosecuting violations of the city, state or federal laws, requests that any of the lost, abandoned or recovered stolen property be held by the chief of police because it is required in a criminal prosecution, the chief shall retain custody and shall not sell the same until written notice is received that the property is no longer needed for prosecution purposes.

2-4-9. Police Lines.

(a) If the city manager determines that a substantial danger to the preservation of public health or safety exists as a result of a parade or demonstration or counter-demonstration or planned or threatened parade or demonstration or counter-demonstration, the manager may set up a police line or lines for the purpose of effecting a clearing; to separate parade participants or demonstrators, counter-demonstrators and passers-by; to allow for the movement of pedestrian and vehicular traffic; to exclude the public from the vicinity of a riot or disorderly gathering; or to protect persons and property. Such police line shall be set up in a manner which represents the least restrictive alternative reasonably necessary to cope with the danger posed, in the judgment of the manager, and by any means which the manager determines gives reasonable notice of the existence of the police line.

(b) Such lines shall at all times provide reasonable space for the parade, demonstration or counter-demonstration. More restrictive lines intended to cope with a riot or disorderly gathering shall be set up only after the riot or disorderly gathering has begun, and shall not be set up based upon mere threat of such arising out of a parade or threatened parade or demonstration or counter-demonstration.

(c) In the case of a riot or disorderly gathering, any police officer of the rank of sergeant or higher may establish a police line at locations reasonably related to the termination of the unlawful behavior.

(d) When incidents occur involving fires, floods, accidents, wrecks, explosions, imminent collapse of buildings or other structures, movement of the earth, damage to public utilities, hazardous materials incidents, crimes in progress,

crime scenes, barricaded persons with weapons or threatening use of weapons or hostage situations, any peace officer or firefighter may establish police lines to afford a clearing for the operation of police, fire and emergency medical personnel and their equipment, and of wreckers or other heavy equipment necessary to deal with the emergency, or to keep the public from the zone of danger. The location and duration of such lines shall be reasonably related to their purpose, and they shall be effectuated by a means which gives reasonable notice of their existence and location.

Ordinance Nos. 4980 (1986); 7129 (2001)

Chapter 5 Fire Department¹

2-5-1. Legislative Intent.

The purpose of this chapter is to define the duties and powers of the fire department and the fire chief and prescribe citizen responsibilities regarding fire abatement.

2-5-2. Authority of Fire Department.

The responsibilities of the city fire department include without limitation: the suppression or extinguishment of fires, the provision of rescue and emergency medical services, the provision of fire inspection and fire prevention services, the management of hazardous substance incidents as defined by state law,² and the planning or response to public disasters and emergencies, including, without limitation, windstorms and flooding.

Ordinance No. 4879 (1985)

2-5-3. Rules and Regulations.

The city manager may make such rules and regulations for the management of the fire department as the manager deems necessary.

2-5-4. Identification Card for Firefighters.

(a) The city manager shall issue an identification card to each city firefighter before the firefighter commences official duties, which identifies the holder as a currently employed city firefighter.

(b) No person shall act as a member of the fire department until such person has been appointed and qualified and unless such person carries a valid and effective identification card.

2-5-5. Powers and Duties of Fire Chief.

(a) The city fire chief has the following powers:

- (1) To demand reasonable assistance from any person present to suppress or extinguish fires;
- (2) To order any person away from the scene of an emergency or fire;
- (3) To delineate restricted areas around the scene of an emergency or fire for the purpose of prohibiting unauthorized persons from access to such areas;
- (4) To arrest any person violating any order of the chief or a firefighter designated pursuant to paragraph (a)(5) of this section; and
- (5) To delegate any of the chief's powers to firefighters.

(b) The fire chief has the following additional duties:

¹ Adopted by Ordinance No. 4679. Derived from Ordinance Nos. 1734, 1932, 3882, 1925 Code.

² §§ 29-22-101 through 109, C.R.S.

- (1) To keep such records as the city manager may require; and
- (2) To make such reports of any matters connected with the fire department that the manager may request.

Chapter 6 **Courts and Confinements¹**

2-6-1. Legislative Intent.

The purpose of this chapter is to protect the public health, safety and welfare by establishing the City of Boulder Municipal Court, prescribing its responsibilities and authority and adopting procedures for its administration and appearances before it. It is also the purpose of this chapter to prescribe a system of confinement for persons sentenced upon conviction of violation of the charter, this code or any other ordinance of the city.

2-6-2. Definitions and Interpretation.

- (a) The following terms have the following meanings unless the context clearly indicates otherwise:

Associate judge means a judge who transacts the business of the court at such times and upon such causes as determined by the presiding judge, and who is employed under a calendar-year contract with renewal at the discretion of the city council upon recommendation of the presiding judge.

Book or *booking* means the administrative procedure of photographing a defendant and obtaining fingerprints following arrest.

Cash bond has the meaning given in paragraph 2-6-24(f)(2), B.R.C. 1981.

Incarcerate means the restraint of a person authorized by this chapter in lieu of immediate release on summons and complaint, and "for custodial arrest" includes transportation to a detention facility, booking and lodging in a detention facility. The term also means lodging in a detention facility under a sentence imposed by the municipal court.

Judge means any judge of the municipal court.

Municipal court means the police magistrate's court or police court prescribed by charter sections 86 and 87 and the courts described by Colorado Constitution Article XX, sections 6(b) and (c).

Peace officer has the meaning prescribed by section 5-1-1, "Definitions," B.R.C. 1981.

Police officer has the meaning prescribed by section 5-1-1, "Definitions," B.R.C. 1981.

Temporary judge means a judge who serves temporarily when the presiding judge and the associate judges are unable to transact the business of the court due to illness, absence, disqualification or other similar reason.

Violation has the meaning prescribed by section 5-2-5, "Violations," B.R.C. 1981, and includes civil infractions.

- (b) Whenever the term *summons* is used in this chapter, unless the context clearly indicates otherwise, it includes a summons, a summons and complaint and a penalty assessment.

- (c) Whenever the term *plea of guilty* is used in this chapter it includes pleas of guilty, acknowledgments of guilt and nolo contendere pleas.

Ordinance No. 7408 (2005)

2-6-3. Creation, Jurisdiction and Powers of Municipal Court.

- (a) Pursuant to charter section 86 there exists a municipal court in and for the City of Boulder, Colorado.

¹ Adopted by Ordinance No. 4729. Derived from Ordinance Nos. 1734, 1908, 1928, 2119, 2120, 2788, 3017, 3173, 3279, 3367, 3451, 3765, 3837, 3995, 4611, 4634.

(b) The municipal court has original jurisdiction of all criminal cases arising under the charter, this code and other ordinances of the city, with power to punish violations thereof by imposing fines and penalties as authorized by this code or any ordinance.

(c) The municipal court has original jurisdiction of all civil cases arising under the charter, this code and other ordinances of the city, with power to assess and collect civil penalties, order and enforce by contempt abatement of nuisances and perform other responsibilities prescribed by the charter, this code and other ordinances of the city.

(d) The municipal court has the jurisdiction and powers of an administrative hearing officer, where so provided by this code or other ordinance of the city.

(e) Each judge is authorized to issue search warrants for the inspection of premises or property by municipal or city-county officials or inspectors in accordance with the Colorado Municipal Court Rules. Each judge may also issue such inspection warrants for the inspection and examination of any structure or property if it satisfactorily appears that the applicant for the warrant is required to make the inspection by any provision of this code or other ordinance of the city or any regulation or routine policy of inspection and enforcement and that for the purpose of making a complete inspection the applicant is required to go upon privately owned premises or enter a privately owned structure. But nothing in this subsection shall be deemed to require the issuance of a warrant for emergency inspections or in any other case where warrants are not required by law.¹

(f) The municipal court is a qualified municipal court of record and shall comply with requirements of state law and regulations for courts of record.² The municipal court shall furnish the record to any party wishing to appeal from a judgment of the municipal court for transcription at such party's expense.

(g) In all cases where a judge acts as an administrative hearing officer under this code or other ordinance of the City, the judge shall conduct hearings under the procedures prescribed by chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981. In all such cases, the judge may impose court costs in an amount not exceeding the amount specified in section 4-20-55, "Court and Vehicle Impoundment Costs, Fees and Civil Penalties," B.R.C. 1981.

(h) Except as otherwise provided in this code, the municipal court shall be conducted under the procedures prescribed by the Colorado Municipal Court Rules and title 13 of the Colorado Revised Statutes.

(i) Code and ordinance violations for which imprisonment is not a possible penalty and that are not criminal under counterpart state law are civil,³ but the judge shall follow the Colorado Municipal Court Rules in all such cases unless the rules are clearly inapplicable.

Ordinance Nos. 5198 (1989); 5617 (1994); 5661 (1995); 7820 (2011)

2-6-4. Judges.

(a) The city council shall appoint a judge to preside over the municipal court, who may appoint such other associate and temporary judges as needed to transact the business of the court, subject to the provisions of this chapter.

(b) The presiding judge shall:

- (1) Supervise and direct the operation and schedule of sessions of the municipal court;
- (2) Adopt written rules for the conduct of the court in the manner prescribed by the Colorado Municipal Court Rules;
- (3) Recruit, appoint, supervise, evaluate and remove temporary judges and law clerks for terms of up to one year as the presiding judge may deem to be needed to conduct the court's business, after notification to the city council of each such appointment, evaluation and removal;

¹ See section 3-2-32, "Enforcing The Collection of Taxes Due (Applies to Entire Title)," B.R.C. 1981, for distraint warrants.

² § 13-10-101 et seq., C.R.S.

³ *City of Greenwood Village v. Fleming*, 643 P.2d 511 (1982).

- (4) Recruit, appoint, supervise and remove referees to conduct the court's business as provided by this code or other ordinance of the city, for terms of up to one year as the presiding judge may deem to be needed for such purpose;
- (5) Recruit associate judges who serve for more than one year, who shall be recommended by the presiding judge to the city council for appointment pursuant to charter section 86;
- (6) Supervise and evaluate associate judges who serve for more than one year, each of whom shall be employed under a calendar-year contract with renewal at the discretion of the city council, and transmit such evaluation, together with a recommendation concerning renewal of the contract and any adjustment in salary, to the city council in time for the council's annual budget process; and
- (7) Assure "at will" status for all temporary and associate judges, but provide sufficient information to the city council so that it may consider any presiding judge recommendation for removal in a process to be set by the city council to review the facts of concern that prompt such action.

(c) After a preliminary meeting with the mayor or the mayor's designee (the "Loudermill meeting"), the mayor or designee may, in consultation with other council members, remove the presiding judge for "cause" pursuant to charter section 86. Thereafter, the presiding judge may, upon relinquishment of all contractual severance payment rights, demand a hearing under the procedures prescribed by chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, before a hearing officer appointed by the city council, at which hearing the city shall have the burden of proof to show cause for removal pursuant to charter section 86.

(d) The presiding and associate judges shall be attorneys at law admitted to practice in the State of Colorado and shall be residents of Boulder County, but need not be residents of the city. The temporary judges shall be attorneys at law admitted to practice in the State of Colorado.

(e) Before assuming the office, each judge shall take and subscribe before a judge of the Twentieth Judicial District and file with the council an oath or affirmation to support the Constitution and laws of the United States and of the State of Colorado and the charter, this code and other ordinances of the city and faithfully to perform the duties of the office.

(f) Each year the city council shall establish the salaries and bonuses payable to the presiding and associate municipal court judges. But the compensation of referees, temporary judges and law clerks serving for terms of up to one year shall be set by the presiding judge.

Ordinance Nos. 7193 (2002); 7408 (2005)

2-6-5. Court Administration.

(a) The court administrator shall be appointed by the city manager.

(b) The court administrator is ex officio court clerk, jury commissioner and supervisor of the violations bureau. Assistants appointed as deputy court clerks have all the powers of the court clerk.

(c) The court administrator shall:

- (1) Keep a register of the actions in the court, including all fees and money collected and disbursed;
- (2) Promptly deliver to the city manager all money received as fees, fines and penalties, which the manager shall deposit into the general fund of the city;
- (3) Prepare and keep a docket for the court noting the judgments made;
- (4) Prepare all writs and other papers pertaining to the business of the court; and
- (5) Make and maintain all necessary court records.

(d) The court administrator may:

- (1) Issue writs and notices, including, without limitation, subpoenas and summonses, in all cases coming before the municipal court; and
- (2) Administer oaths and affirmations to persons appearing in any capacity in the municipal court.
- (e) The court administrator is not required to post the bond required by § 13-10-109, C.R.S.

(f) The administrator is authorized to use any lawful method of collecting fines, fees, default judgments, personal recognizance bond forfeitures and civil penalties due from any person assessed such sums by the municipal court, including reasonable costs of collection. The city shall be entitled to receive the reasonable costs of collection in addition to the amounts otherwise due and interest at the statutory rate for unpaid civil judgments. Reasonable costs of collection shall include, without limitation, the fees and costs of the city attorney or of private counsel or a collection agency, but such fees and costs shall not exceed twenty-five percent of the amount collected.

Ordinance Nos. 7193 (2002); 7408 (2005)

2-6-6. Violations Bureau.

(a) The court administrator shall establish a violations bureau to assist with clerical work, to be operated during the hours that the court administrator determines.

(b) The presiding judge may designate the provisions of the charter, this code or other ordinances of the city for violations of which payments of the fine and costs may be accepted by the violations bureau and which classes of defendants may satisfy their obligations by paying such fines and costs. The judge shall specify schedules of the amounts of such fines and costs consistent with the charter, this code and other ordinances of the city. If the judge designates a provision as being eligible for payment at the violations bureau, the judge may also designate that provision as being eligible for payment by mail.

(c) Any person eligible to pay a fine and costs under the provisions of subsection (b) of this section to the violations bureau may pay the fine and costs before or on the arraignment date specified in the summons, or after entering a plea at the arraignment but before trial, at the violations bureau upon entering a written plea of guilty. The bureau, upon accepting the prescribed fine and costs, shall issue a receipt to the person acknowledging payment thereof.

(d) The violations bureau shall:

- (1) Accept designated fines, accept payment of costs, issue receipts and accept designated deferred sentence pleas;
- (2) Receive and issue receipts for bail bonds and enter the time of their appearance on the court docket; and
- (3) Send records of pleas of guilty on which judgment is entered or for which a bond is forfeited to the Colorado Division of Motor Vehicles where required by statute, and follow such other procedures as prescribed by this code, other ordinances of the city, the Colorado Municipal Court Rules or state law.

Ordinance Nos. 7193 (2002); 7408 (2005)

2-6-7. Parking Infraction Office and Scofflaw List.

(a) Office Established: The court administrator shall establish a parking infractions office to assist with clerical work relating to parking infractions, to be operated during the hours that the court administrator determines.

(b) Payment of Fine: Any person wishing to pay a fine for a parking infraction may pay the fine before or after the date specified in the parking ticket at the parking infractions office. Such payment discharges the obligation to pay the fine and results in dismissal of the case.

(c) Courtesy Notice of Overdue Parking Ticket:

- (1) The administrator may give notice by first class mail to the registered owner of any vehicle for which there is an overdue parking ticket, stating that there has been no response to the ticket and:

- (A) The date and the nature of the ticket overdue and the amount, including late fees, due;
- (B) That a response is due within ten days after the date of mailing;
- (C) That the owner shall, by said deadline, respond to the notice by paying the total amount due or by arranging with the violations bureau for contesting the charges, fees and amounts due, in which case the owner shall post a cash bond for the total amount due or make other arrangements approved by a judge;
- (D) That if the vehicle owner fails to respond within the prescribed time period, the owner will forfeit the right to a trial or hearing to contest the tickets and a default judgment will be entered;
- (E) The letter may also explain the scofflaw provisions of this section.

- (2) The notice allowed by this subsection is sufficient if mailed to the address provided by a government vehicle registration office. If the court administrator is unable, after exercising due diligence, to discover any mailing address, then notice is sufficient if it is published once in a newspaper of general circulation in the city, posted on the vehicle, personally served on the vehicle owner or driver, or provided by any other means that provides due process.
- (3) If the date for response specified in the letter passes without payment of the fines and fees or posting of sufficient bond, a default judgment shall be deemed entered upon all tickets specified in the notice.

(d) Scofflaw List: As frequently as practicable, the court administrator shall prepare and update the scofflaw list (which may also be known as the "pick-up list"), consisting of vehicles involved in such number of overdue parking tickets as the administrator shall determine is efficient to include on the pick-up list.

- (1) There is hereby imposed upon the owner of every vehicle on the scofflaw list a civil penalty of the amount specified in section 4-20-55, "Court and Vehicle Impoundment Costs, Fees and Civil Penalties," B.R.C. 1981, to cover administrative costs. There is also hereby imposed upon the owner of every vehicle on the scofflaw list that is immobilized or impounded a civil penalty of the amount specified in section 4-20-55, "Court and Vehicle Impoundment Costs, Fees and Civil Penalties," B.R.C. 1981, to cover the additional administrative costs.

- (2) The court administrator shall give notice by first class mail to the registered owner of each vehicle on the scofflaw list, stating that the vehicle is on the scofflaw list and:

- (A) The date and the nature of each ticket overdue and the amount due on each;
- (B) That a scofflaw list fee in the amount specified in paragraph (d)(1) of this section has been imposed to cover administrative costs;
- (C) The total amount currently due;
- (D) A specific deadline for response, no less than ten days after the date of mailing;
- (E) That the owner shall, by said deadline, respond to the notice. Response shall be by paying the total amount due. But for any ticket for which a courtesy notice has not previously been mailed and a default judgment entered, response may also be by arranging with the violations bureau for contesting the charges, fees and amounts due, in which case the owner shall post a cash bond for the total amount due or make other arrangements approved by a judge;
- (F) That if the vehicle owner fails to respond within the prescribed time period, the listed vehicle will be subject to immediate immobilization or impoundment. For any ticket for which a courtesy notice has not previously been mailed and a default judgment entered, the notice shall also state that if the date for response specified in the scofflaw notice passes without payment of the fines and fees or posting of sufficient bond, a default judgment shall be deemed entered upon all tickets specified in the notice, and the owner will forfeit the right to a trial or hearing to contest the tickets. If a default judgment has previously been entered, the notice shall so state;

- (G) That an immobilization or impoundment fee in the amount specified in paragraph (d)(1) of this section will be imposed upon every vehicle immobilized or impounded to cover administrative costs; and
- (H) That if the vehicle is impounded, the owner will also be required to pay the costs of towing and storage.
- (3) The notice required by paragraph (d)(2) of this section is sufficient if mailed to the address provided by a government vehicle registration office. If the court administrator is unable, after exercising due diligence, to discover any mailing address, then notice is sufficient if it is published once in a newspaper of general circulation in the city, posted on the vehicle, personally served on the vehicle owner or driver, or provided by any other means that provides due process.
- (4) If the date for response specified in subparagraph (d)(2)(D) of this section passes without payment of the fines and fees or, if permitted, posting of sufficient bond, such vehicle may be immobilized or impounded and a default judgment, if not previously entered, shall be deemed entered upon all tickets specified in the notice.
- (5) Upon contacting the driver of any vehicle on the scofflaw list for which no response has been made within the deadline stated in the notice while that vehicle is located upon any public property or private property open to the use of the public, a peace officer shall inform the driver thereof that violations are alleged against the vehicle to which no response has been made and request the driver forthwith to appear with the officer at the parking infractions office (or to the police department after the office's normal business hours) to respond to the charges in the manner indicated by this section. If such driver fails or refuses to comply with this request forthwith, or if such driver cannot demonstrate that the driver has on the driver's person sufficient cash or other means of payment of a type approved by the municipal court, or if the vehicle located is unattended at the time the officer initially determines that it is subject to impoundment or immobilization, the peace officer shall cause such vehicle to be immobilized or impounded.
- (6) If the owner or an agent of the owner pays the fines and fees, including the amount specified in section 4-20-55, "Court and Vehicle Impoundment Costs, Fees and Civil Penalties," B.R.C. 1981, if any, and all towing and storage charges, if any, or posts a bond to cover such fines, fees and charges, or arranges any combination of payment and bond to cover the total due, the court administrator shall remove such vehicle from the scofflaw list and release it from immobilization or impoundment. If any parking ticket not included on the scofflaw list for which the owner is liable becomes overdue before the owner or agent appears to pay or post bond, such subsequent tickets shall also be paid or bond shall be posted therefor before the vehicle is removed from the scofflaw list or released from immobilization or impoundment.
- (e) The owner of a vehicle that is subject to the procedures of this section and section 2-6-8, "Booting," B.R.C. 1981, is entitled to:
- (1) A trial conducted under the usual procedures for allegations of violation of the provisions of chapter 7-6, "Parking Infractions," B.R.C. 1981, to dispute any of the underlying parking tickets not in default. Whether or not the vehicle was parked in violation of the provision alleged shall be the only issue at such a trial;
- (2) A hearing, if a motion is filed with the court to set aside the default on any ticket on the ground that the notice required by this section before a default may be entered was not properly given;
- (3) An administrative hearing to dispute the applicability of the scofflaw fee on the ground that a parking ticket was not served. Such hearing shall be conducted in the same manner as, and where applicable shall be combined with, the hearing under subsection 7-7-7(f), B.R.C. 1981, concerning the immobilization or impoundment fee. The fact that a person is found not guilty of one or all of the underlying parking tickets is not relevant to the issue of the applicability of the scofflaw fee; and
- (4) A post-impoundment hearing to challenge the immobilization or impoundment fee as prescribed by subsection 7-7-7(f), B.R.C. 1981.

Ordinance Nos. 4969 (1986); 5039 (1987); 5617 (1994); 5686 (1994); 5760 (1995); 7193 (2002); 7408 (2005)

2-6-8. Booting.

(a) At the discretion of a peace officer, any vehicle on the scofflaw list subject to impoundment under section 2-6-7, "Parking Infraction Office and Scofflaw List," B.R.C. 1981, may first be immobilized by installing on such vehicle a device known as a *boot*, which clamps and locks on to a wheel of the vehicle and impedes movement of such vehicle.

(b) The person installing the boot shall leave under the windshield wiper or otherwise attach to such vehicle a notice advising the owner that such vehicle has been booted by the City of Boulder for failure to pay or contest one or more parking tickets, that release of the boot may be obtained by paying the fines and fees due or by posting a bond to cover such amounts, that unless such payments are made, the vehicle will be impounded, and that it is unlawful for any person to remove or attempt to remove the boot, to damage the boot or to move the vehicle with the boot attached.

(c) No parking restriction otherwise applicable to the vehicle applies while the vehicle is immobilized by a boot installed under the provisions of this section.

(d) Upon notification that the vehicle has been removed from the scofflaw list, the court administrator shall promptly remove the boot from such vehicle.

2-6-9. Misconduct in Office.

No officer of the municipal court or any city employee or agent receiving or having custody of any court bond, court cost, fine, penalty or forfeiture, shall fail forthwith to remit it in accordance with the direction of the city manager. Violation of this section constitutes misconduct in office and is a ground for removal therefrom.

2-6-10. Contempt.

(a) Any person who fails to appear in response to any summons or subpoena served on such person commits contempt of court and upon proof thereof, in a hearing appropriate to the case, is subject to a fine of not more than \$1,000.00, a sentence of not more than ninety days in jail or both such fine and imprisonment.

(b) The judge may punish other contempts of court by a fine of not more than \$1,000.00, imprisonment of not more than ninety days in jail or both such fine and imprisonment upon proof thereof, after a hearing appropriate to the case.

Ordinance No. 7252 (2002)

2-6-11. Municipal Court Cases to Be Public.

All cases in the municipal court are open to the public.

2-6-12. City Attorney is Prosecutor.

The city attorney or delegate thereof shall act as the prosecutor and represent the city in all municipal court proceedings as appropriate, with all the privileges, immunities, powers and duties of such office.

2-6-13. Initiation of Proceedings in Municipal Court.

(a) A proceeding in the municipal court is initiated by the filing of a complaint or the service of a summons and complaint; by any means provided in this code, the statutes of this state or the Colorado Municipal Court Rules; or in any other manner that provides due process of law.

(b) A parking ticket is a form of summons and complaint.¹

(c) In a municipal court action it is sufficient in a complaint or summons and complaint to charge a violation of the charter, this code or any ordinance of the city alleged to have been violated by referring to the section describing such violation, without referring to any subsection under the section violated.

¹ See *Patterson v. Cronin*, 650 P.2d 531 (Colo.) and paragraph 7-6-5(a)(1), B.R.C. 1981.

(d) A peace officer may serve any process issued by the municipal court anywhere within Boulder County.¹

2-6-14. Penalty Assessment.

(a) The presiding judge may designate offenses under this code that are subject to the penalty assessment procedure and the amount of the assessment for each violation. But no violation for which provision for a plea of guilty at the violations bureau is not made may be designated as subject to the penalty assessment procedure. The judge shall notify the city manager, the city attorney and the chief of police in writing of such designation and amount and any changes thereto.

(b) When a peace officer is authorized to serve a summons and complaint on any person, the officer may issue a penalty assessment notice if:

- (1) The offense has been designated by the presiding judge;
- (2) Only one offense has arisen out of the same episode of violation;
- (3) No significant hazard to life or property was involved;
- (4) The offense does not appear to be an intentional or reckless violation;
- (5) A police officer would not be entitled to incarcerate the defendant under section 2-6-18, "Authority to Arrest and Incarcerate," B.R.C. 1981; and
- (6) The circumstances reasonably persuade the officer that the person is likely to comply with the terms of the penalty assessment notice. Such circumstances may include the officer accompanying the person to a post office or mailbox and witnessing the deposit in the mail of the notice with payment of the fine attached.

(c) Service of a penalty assessment notice upon the recipient is complete upon signature by the person of the penalty assessment acknowledgement of guilt or promise to appear. At that point, the person is obligated either to pay the specified fine or penalty by mail at the place and within the time specified on the notice or to appear at the place and time specified on the notice to be arraigned by the court.

(d) Payment of a penalty assessment by mail or at the violations bureau after signature of the penalty assessment "acknowledgement of guilt or promise to appear" constitutes:

- (1) A plea of guilty;
- (2) A conviction for the purposes of any penalty enhancement provisions on future offenses; and
- (3) If driving a motor vehicle is involved, a conviction within the meaning of §§ 42-2-119, 42-2-123 and 42-4-1510, C.R.S., as amended.

(e) If a person served with a penalty assessment notice chooses not to plead guilty, such person shall appear as required in the notice. If the person withdraws a plea of not guilty and enters a guilty plea to the judge or, upon trial, if the person is found guilty, the fine imposed is that specified in the notice for the offense of which the person was found guilty. Court costs shall also be imposed, as prescribed by subsection 2-6-35(b), B.R.C. 1981.

(f) If a person who has paid a penalty assessment by mail appears at the time and place specified in the notice and petitions the judge to withdraw the plea of guilty, the petition shall be granted, and the person shall be arraigned. In such instance the amount paid shall be considered the bond. If such person appears and petitions the judge after the time for appearance has passed, the petition shall be entertained only upon a showing of excusable neglect, and granted only upon a prima facie showing of a meritorious defense, and then only if the appearance is made within thirty days after the time for appearance specified in the notice of penalty assessment.

¹ § 31-4-112, C.R.S.

2-6-15. Form of Summons, Summons and Complaint, Complaint, Penalty Assessment Notice and Parking Ticket.

(a) After consulting the city manager and city attorney, the presiding judge shall approve a standard summons and complaint form for routine use by peace officers that meets all the legal requisites of a summons and complaint and contains a place for the defendant to sign a promise to appear. The municipal court shall print and distribute the form in appropriate amounts to peace officers and may combine it with a penalty assessment notice.

(b) After consulting the city manager and city attorney, the presiding judge shall approve a standard penalty assessment notice that meets all the requirements of a summons and complaint except that it contains a place for the defendant to sign an acknowledgement of guilt or promise to appear, specifies the requirement that the defendant plead guilty by paying the fine or appear to answer the charge at the specified time and place; and contains a place to record the license number of the defendant's vehicle, if involved, the defendant's driver's license number, if any, the points to be assessed, if any, in accordance with § 42-2-123, C.R.S., as amended, and the fine. The municipal court shall print and distribute the form in appropriate amounts to peace officers. Failure of a peace officer to record any or all of the additional information correctly or at all is not grounds for dismissal, but failure to indicate points or the indication of too few points for the offense may not be corrected by amendment or otherwise after a record of conviction by acknowledgement of guilt and payment of fine under the penalty assessment procedure has been sent to the Colorado Division of Motor Vehicles.

(c) After consulting with the city manager and city attorney, the presiding judge may approve a combined summons and complaint and penalty assessment notice form.

(d) After consulting the city manager and city attorney, the presiding judge shall approve as to form a parking summons and complaint form designed to be served in accordance with paragraph 7-6-5(a)(1), B.R.C. 1981. The city manager shall print and distribute this form.

(e) Nothing in this chapter shall be construed to invalidate the use of any other form or type of summons, summons and complaint or complaint that provides due process of law.

2-6-16. Authority to Detain Temporarily.

(a) A police officer may stop any person who the officer reasonably suspects is committing, has committed, or is about to commit a violation of the charter, this code or any ordinance of the city and may require that person to give his or her name and address, identification if available, and an explanation of his or her actions.

(b) When a police officer has stopped a person for questioning pursuant to this subsection and reasonably suspects that the officer's personal safety requires it, the officer may conduct a pat-down search of that person for weapons.

(c) A police officer may stop and temporarily detain a person for the purpose of issuing or serving a summons or summons and complaint.

(d) A stop and temporary detention under the authority of this section constitutes an arrest for the purposes of section 5-5-2, "Resisting Arrest," B.R.C. 1981, but not otherwise.

Ordinance No. 5377 (1991)

2-6-17. Authority to Charge.

A peace officer may issue a summons and complaint or sign a complaint against any person for any violation of the charter, this code or any ordinance of the city if:

(a) The violation has been or is being committed by a person in the officer's presence; or

(b) The officer has probable cause to believe that a violation has been or is being committed by the person and that the person has been or is committing it.

2-6-18. Authority to Arrest and Incarcerate.

(a) A police officer may arrest a person for a violation of the charter, this code or any ordinance of the city if:

- (1) The violation has been or is being committed by a person in the officer's presence; or
- (2) The officer has probable cause to believe that a violation has been or is being committed by the person and that the person has been or is committing it.

(b) Whenever any police officer is authorized by this code to arrest any person, the officer has the authority to incarcerate that person if the officer has probable cause to believe that one or more of the following conditions exist:

- (1) The person is not likely to desist from the conduct alleged to constitute a violation after issuance of a summons;
- (2) The person is unlikely to appear in municipal court in response to a summons (but the fact that the defendant does not reside in the city is not alone such probable cause);
- (3) The person refuses or is unable to post the bond required by this chapter;
- (4) The person refuses service of a summons;
- (5) The person refuses to sign the promise of appearance, if any, on the summons;
- (6) The person refuses to identify himself or herself by giving complete name and address verifiable by reasonable supporting data; or
- (7) The person falsely identifies himself or herself.

(c) A police officer shall incarcerate any person when the officer has a warrant or writ commanding that such person be arrested or has received information, which the officer reasonably believes to be reliable, that such warrant or writ exists.

2-6-19. Booking.

(a) Any person incarcerated solely because of inability to verify identity by reasonable supporting data shall be released by the booking officer after the booking procedure if the person signs a promise to appear.

(b) The booking officer shall release any person not arrested on a warrant or writ upon posting of the bond according to the schedule specified by the municipal court or upon order of a judge or upon order of any referee appointed for that purpose by a judge or upon a personal recognizance bond in the amount specified in the bond schedule on the order of any police officer of the rank of sergeant or above.

(c) Persons arrested on a warrant or writ shall be disposed of according to the command of the warrant or writ.

(d) Persons not released as provided in this section shall be held in custody as provided in subsection 2-6-24(e), B.R.C. 1981.

2-6-20. Release.

(a) Except when arresting on a warrant or writ, at any stage of the process from stopping to charging to incarceration up to the booking stage a police officer, at the officer's discretion, may:

- (1) Issue the person a summons without arrest or incarceration;
- (2) Detain the person and subsequently release with or without the issuance of a summons;
- (3) Arrest the person and subsequently release with or without booking or incarceration or issuance of a summons.

(b) At and after booking, officers are governed by the provisions of section 2-6-19, "Booking," B.R.C. 1981.

2-6-21. Protective Custody.

Nothing in this code shall be construed to lessen the authority of a police officer to take a person into "protective custody" in compliance with state law, or to assist any person to obtain medical care who, in the opinion of the police officer, is in need of medical care by reason of injury or physical or mental condition.

2-6-22. Use of Force.

An arrest may be made on any day and at any time of the day or night. All necessary and reasonable force may be used in making an arrest. All necessary and reasonable force may be used to effect an entry upon any building or property or part thereof to make an authorized arrest.

2-6-23. Court Issued Warrants and Summons.

(a) If a person fails to appear in court as required by a summons, fails to appear at any post-arraignment proceeding or fails to comply with an order of the municipal court or a condition of release on bond, the judge may issue a warrant for the person's arrest.

(b) If any person fails to appear in municipal court as required by a subpoena or fails to comply with any subsequent order of the judge premised upon such subpoena, the judge may issue a warrant for the person's arrest.

(c) Upon the filing of a properly executed complaint by any person and with the agreement of the city attorney, the judge may issue a warrant for the arrest of an individual if the complaint is accompanied by an affidavit that sets forth facts sufficient to show probable cause to believe the alleged violation has been committed, that the individual accused has committed it, and that the offense and conditions are such that the defendant could be incarcerated as provided in section 2-6-18, "Authority to Arrest and Incarcerate," B.R.C. 1981. If the individual may not be incarcerated, the court shall issue a summons.

(d) Each municipal court warrant shall state the name of the person to be arrested, the charter, code or ordinance section alleged to have been violated, the date and place of the alleged violation, that the person is alleged to have committed the offense, and the bond set for release on bail after arrest.

(e) In association with the issuance or return of any warrant issued pursuant to this section, the judge may impose a warrant processing fee in an amount not to exceed the amount set for such a fee in section 4-20-55, "Court and Vehicle Impoundment Costs, Fees and Civil Penalties," B.R.C. 1981.

Ordinance No. 7820 (2011)

2-6-24. Posting Bond.

(a) Each person served with a summons who has signed a promise to appear is deemed to have given a personal recognizance in the amount of bond set for the violation on the bond schedule of the presiding judge.

(b) Each person served with a summons for violation of title 7, "Regulation of Vehicles, Pedestrians and Parking," B.R.C. 1981, whose driver's license or other identification does not show residence in the states (other than the State of Colorado) that have signed the "Nonresident Violator Compact"¹ shall post a cash bond to secure appearance at arraignment.

- (1) Such bonds may be posted at the municipal court, at the headquarters of the city police department if the municipal court is not open, or by the defendant mailing a cash deposit to the municipal court in an envelope furnished by the citing officer with the citing officer as witness to the deposit of the funds in a mailbox.
- (2) A police officer of the rank of sergeant or above may waive the posting of a cash bond in cases of undue hardship and substitute therefor a written personal recognizance bond in a sum certain, according to the bond schedule set by the presiding judge.

¹ § 24-60-2101, C.R.S.

(c) In order to secure appearance at trial, sentencing and all other court proceedings, all cash, surety and personal recognizance bonds posted prior to arraignment shall be continued for all cases not disposed of at arraignment, unless changed or modified by the judge at arraignment or in some other proceeding, in which case such bond shall be continued. Persons setting cases for trial who have not previously posted a cash bond shall post a cash bond in an amount established by the judge if the person has any history of failure to appear. In such cases the judge may accept personal recognizance bonds in a sum certain from indigent persons in lieu of cash bonds. In all other cases the judge may require a cash bond, or may continue, increase or decrease any personal recognizance bond in the judge's discretion.

(d) The presiding judge shall establish a bond schedule of amounts that must be deposited to qualify for bail. The schedule shall be available at all times at the Boulder County jail and the city police department. If a person is arrested upon a warrant issued by the judge with bond set forth on the warrant, or if the person can meet the requirements of an applicable order of the judge, the person shall be released on bail. A booking officer shall promptly inform the defendant of the applicable bond requirements.

(e) If the person does not post a required bond, the person shall be brought before the judge or a referee appointed thereby to establish conditions of release (including, without limitation, a bond) pending arraignment before the judge. The conditions shall be in writing and set forth the date, time and place of the person's appearance before the judge. The release conditions established by a referee may be modified by the judge, but except for the requirements of subsection (c) of this section, unless so modified, remain in effect until termination of the court proceeding against the person.

(f) The judge or referee of the municipal court may accept one or a combination of the following bonds:

- (1) A personal recognizance consisting of the person's promise to appear in court for all proceedings and agreement to forfeit a sum certain for failure to appear;
- (2) A cash or surety bond secured by the undertakings of a corporate or private surety acceptable to the judge or referee or by the deposit of an equal amount of cash or any other property in lieu thereof.

(g) In addition to the bonds set forth in subsection (f) of this section, the judge or referee may impose conditions of release, including, without limitation:

- (1) Releasing the person into the care of the qualified person or organization responsible for supervising the defendant and assisting the defendant to appear in court;
- (2) Imposing reasonable restrictions on the person's activities, movements, associations and residences;
- (3) Releasing the person during working hours but requiring the person to return to custody at specified times; or
- (4) Imposing any other reasonable restrictions and conditions designed to assure the person's appearance before the municipal court.

(h) Any bond that may be posted or fine that may be paid in cash may also be paid by check, if the police or municipal court officer receiving such bond is satisfied that the check will be honored. The court administrator may enter into an agreement with one or more credit card companies for payments of bonds, costs or fines by credit card and establish the conditions under which police or municipal court officials may accept payment by credit card.

Ordinance Nos. 4969 (1986); 5802 (1996); 7193 (2002); 7252 (2002)

2-6-25. Forfeiture of Bond and Default Judgment.

(a) If a defendant in any case before the municipal court fails to appear according to the terms, requirements and conditions of the appearance bond or appears and departs the court without leave, the bond shall be forfeited. If the bond was a personal recognizance bond, the judge may issue a writ of execution in the amount of the bond or may issue an arrest warrant with bond, if any, set in an amount determined by the judge, unless a default judgment is entered under the provisions of subsection (b) of this section.

(b) If the defendant in any case before the municipal court involving a violation for which jail is not a possible penalty and the fine cannot exceed \$500.00 fails to appear for arraignment, any hearing or trial, the judge may enter a

default judgment against the defendant. In the case of a defendant which is not a natural person, the \$500.00 limit does not apply. The amount of the default judgment shall be the appropriate penalty assessed after a finding of guilt or liability, the amount of any forfeited personal recognizance bond, the docket fee and any additional costs assessable. The judge may set aside a judgment entered under this subsection on a showing of good cause or excusable neglect by the defendant, but only on motion to set aside made to the court not more than thirty days after entry of the default judgment. If a default judgment is entered, no warrant shall issue for the arrest of the defendant. A default judgment not timely set aside may only be satisfied by payment of the judgment. Any cash bond forfeit or payment on a forfeited bond by a surety shall not be applied against the judgment.

(c) If a surety bond is forfeited in a municipal court action, the surety shall pay the bond amount into the court within fourteen days of the forfeiture.

(d) The surety upon a bond forfeited in a municipal court action may apply to the judge for a return of the whole or part of the bond paid to the court by application in writing supported by an affidavit setting forth the grounds for the demand. Upon a showing of good cause for the return of the whole or a part of the bond amount, the judge shall order the court administrator to pay the amount determined by the judge to be due to the surety. The court shall make a verbatim record of all such proceedings.

Ordinance Nos. 5802 (1996); 7408 (2005)

2-6-26. Deferred Sentence.

(a) In any case in which the defendant has entered a plea of guilty, the judge accepting the plea has the power, with the written consent of the defendant and the defendant's attorney of record, if any, and the city attorney, to continue the case for a period not to exceed two years from the date of entry of such plea for the purpose of deferring judgment and sentence upon such plea. With the consent of the city attorney, the violations bureau may accept any plea of guilty entered before it under the provisions of this section and continue the case. But in such case, no jail term may be imposed upon proof of breach.

(b) Prior to entrance of a plea to be followed by a deferred judgment and sentence, the city attorney is authorized to enter into a written stipulation, to be signed by the defendant and the defendant's attorney of record, if any, under which the defendant is obligated to adhere to such stipulation. The stipulation may contain any conditions listed in subsection 2-6-37(f), B.R.C. 1981; payment of the amount specified in section 4-20-55, "Court and Vehicle Impoundment Costs, Fees and Civil Penalties," B.R.C. 1981, in administrative costs is one condition of every such stipulation. Upon full compliance with such conditions by the defendant, the plea or acknowledgment previously entered shall be withdrawn and the action against the defendant dismissed with prejudice. Such stipulation shall specifically provide that, upon a breach by the defendant of any condition, the judge shall enter judgment and impose sentence upon the previously entered plea of guilty. Whether a breach of condition has occurred shall be determined by the court upon application of the city attorney and upon notice of hearing thereon of not less than five days to the defendant or the defendant's attorney of record, if any, at the address given by the defendant on the stipulation. The burden of proof at such hearing is on the city attorney by a preponderance of the evidence, and the judge shall apply the rules of evidence for civil non-jury cases, but may receive and consider evidence not admissible under such rules if it possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs.

(c) In signing a stipulation by which it is provided that judgment and sentence shall be deferred for a time certain, a defendant thereby waives all rights to a speedy trial and a prompt sentence.

Ordinance Nos. 5123 (1988); 5760 (1995)

2-6-27. Deferred Prosecution and Conditional Motions to Dismiss.

(a) In any case the judge may, prior to trial or entry of a plea of guilty and with the consent of the defendant, the defendant's attorney of record, if any, and the city attorney, order the prosecution of the offense to be deferred for a period not to exceed two years or in the alternative grant a conditional motion to dismiss. Such deferral or dismissal may be conditioned by written stipulation in the manner provided in subsection 2-6-26(b), B.R.C. 1981.

(b) Upon the defendant's full compliance with such conditions, the charge against the defendant shall be dismissed with prejudice. If any condition is violated, the defendant shall be tried for the offense for which the defendant is charged. Whether a breach of condition has occurred shall be determined by the court upon application of the city attorney and upon notice of hearing thereon of not less than five days to the defendant or the defendant's attorney of record, if any, at the address given by the defendant on the stipulation. The burden of proof at such hearing is on the city by a preponderance of the evidence, and the judge shall apply the rules of evidence for civil non-jury cases, but may receive and consider evidence not admissible under such rules if it possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs.

(c) Upon consenting to a deferred prosecution or a conditional motion to dismiss as provided in this section, the defendant shall execute a written waiver of defendant's right to a speedy trial. Consent to a deferred prosecution or a conditional motion to dismiss under this section shall not be construed as an admission of guilt, nor shall such consent be admitted in evidence in a trial for the offense for which the defendant is charged.

Ordinance Nos. 4969 (1986); 7820 (2011)

2-6-28. Jury Trial.

(a) In proceedings where the defendant has a right under applicable state or federal constitution or law to trial by jury, the defendant may request a jury trial, but in all other proceedings all questions of fact and law shall be decided by the judge or referee.¹

(b) The city attorney may demand a trial by jury of any defendant in any case in which the defendant has a right to trial by jury, in which event no jury fees are required to be paid by any party.

2-6-29. Jurors and Jury List.

(a) Qualifications and exemptions of jurors in municipal court are those provided by state law.²

(b) In the last quarter of each year, and at such other times as the presiding judge directs, the jury commissioner shall prepare a list of persons in the city who are qualified to serve as jurors and not exempt from jury service. A copy of the juror list that does not contain addresses of the jurors shall be kept in the jury commissioner's office for public inspection.

(c) The jury commissioner shall draw jurors under the procedures prescribed by the Colorado Uniform Jury Selection and Service Act.³

(d) Absent a court order to the contrary, if counsel or pro se parties request a list of prospective jurors containing the jurors' names and addresses, the jury commissioner shall:

- (1) Refer the request to the state court administrator for action consistent with state law if the city has a contract with that agency; or
- (2) If the city does not have such a contract, refer the request to the presiding judge of the municipal court, who shall consider the requirements of the state statutes on the subject, the needs of the parties and the protection of prospective jurors.

Ordinance No. 7252 (2002)

2-6-30. Juror Fees.

Jurors called before the municipal court under this chapter shall receive a fee of the amount specified in section 4-20-55, "Court and Vehicle Impoundment Costs, Fees and Civil Penalties," B.R.C. 1981.

Ordinance No. 5760 (1995)

¹ Charter section 87.

² §§ 13-71-107 through 114, C.R.S.

³ Colorado Uniform Jury Selection and Service Act, § 13-71-101, C.R.S.

2-6-31. Juror Violations.

(a) No person shall refuse or neglect to obey a lawful mandate, order or direction of the jury commissioner or shall hinder, delay or obstruct the service of any process issued by the commissioner, or shall refuse or neglect to appear, or shall refuse to answer any question touching upon the person's qualifications or the qualifications of any other person to serve as a juror.

(b) No person shall perform any act for the purpose of placing upon the jury list or omitting from the jury list such person's own name or the name of any other person.

(c) No jury commissioner or designate thereof or municipal court clerk shall place on or take from the jury list any name other than according to this chapter.

2-6-32. Fee for Service of Subpoena.

Repealed.

Ordinance No. 7008 (1999)

2-6-33. Witness Fees.

Every witness subpoenaed and every witness who appears voluntarily at the written request of the city who makes claim therefor at the time of appearance may receive a witness fee of the amount specified in section 4-20-55, "Court and Vehicle Impoundment Costs, Fees and Civil Penalties," B.R.C. 1981. But no city officer or employee may receive such witness fee.

Ordinance No. 5760 (1995)

2-6-34. Witness Immunity.

When in the judgment of the city attorney the testimony of any witness or the production of any books, papers or other evidence by any witness in any case or proceeding before the municipal court involving any violation of the penal laws of the city is necessary in the public interest, the city attorney may request that the judge instruct the witness to testify or produce evidence subject to the provisions of this section concerning witness immunity. Upon order of the judge, the witness shall not be excused from testifying or from producing books, papers or other evidence on the grounds that the testimony required of the witness may tend to incriminate the witness or subject the witness to a penalty or forfeiture; but no such witness may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which the witness is compelled, after having claimed his or her privilege against self-incrimination, to testify or produce evidence, nor may testimony so compelled be used as evidence in any criminal proceeding against the witness in any court, except a prosecution for perjury or contempt committed while giving testimony or producing evidence under compulsion as provided in this section.

2-6-35. Court Costs.

(a) In any prosecution for violation of the charter, this code or any municipal ordinance based upon the complaint of any person other than a police officer or other employee of the city, if the complaining witness who signed a complaint fails or refuses to testify at the time of trial or if it appears to the judge, in a hearing under the procedures of chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, that there was no reasonable ground for such complaint or that it was maliciously or imprudently entered, the judge in the judge's discretion may assess costs and penalties against such complaining witness in an amount not exceeding the amount specified in section 4-20-55, "Court and Vehicle Impoundment Costs, Fees and Civil Penalties," B.R.C. 1981.

(b) The judge shall assess court costs in the amount specified in section 4-20-55, "Court and Vehicle Impoundment Costs, Fees and Civil Penalties," B.R.C. 1981, which shall be assessed against all defendants upon entry of a conviction at or subsequent to arraignment, but the judge may suspend the costs in the interest of justice. No costs shall be assessed when conviction is by a plea of guilty entered by mail pursuant to the penalty assessment procedure prescribed by section 2-6-14, "Penalty Assessment," B.R.C. 1981, or at the violations bureau before arraignment pursuant to the procedure prescribed by subsection 2-6-6(b), B.R.C. 1981.

(c) The judge shall assess against a convicted defendant for all witnesses subpoenaed and appearing at the trial the fees prescribed by section 2-6-33, "Witness Fees," B.R.C. 1981, but may suspend these costs in the interests of justice.

(d) The judge may assess against a convicted defendant any other costs similar to those authorized by state law for proceedings in state courts including, without limitation, jury fees and deposition costs.¹

(e) Costs for persons convicted after trial to the court are the amounts specified in section 4-20-55, "Court and Vehicle Impoundment Costs, Fees and Civil Penalties," B.R.C. 1981.

(f) The judge shall assess the statutory administrative processing cost specified in § 42-2-118(1)(c), C.R.S., for any person against whom an outstanding judgment or warrant of this court was entered pursuant to § 42-4-1709(7), C.R.S., and shall remit half of the fee to the Colorado Department of Revenue as required by law.

(g) Unpaid costs may be collected only in the manner of any other civil judgment.

Ordinance Nos. 4879 (1985); 5081 (1987); 5525 (1992); 5760 (1995); 5802 (1996)

2-6-36. Sentencing, Consideration of Presentence Confinement.

In sentencing a defendant to imprisonment, the sentencing judge shall take into consideration that part of any presentence confinement that the defendant has undergone with respect to the violation for which the defendant is to be sentenced. The judge shall state in pronouncing sentence, and the judgment shall recite what consideration has been given, but no sentence shall be set aside or modified on review because of alleged failure to give such consideration unless the sentence imposed is longer than the maximum permitted under this code for the offense less the amount of allowable presentence confinement and the judgment fails to recite that consideration has been given.

2-6-37. Sentence, Execution and Writ of Commitment, Suspension, Probation and Default.

(a) The judge may sentence any person found guilty of a violation of the charter, this code or any ordinance of the city to a fine, imprisonment or both such fine and imprisonment as provided for such violation, together with allowable costs.

(b) If a defendant against whom any fine or penalty is assessed upon conviction fails to pay or satisfy it as directed by the judge, the judge may issue a writ of execution to provide for the satisfaction of such sentence.

(c) If a defendant is sentenced to imprisonment, the judge shall issue a writ of commitment directing the Boulder County Sheriff to take the defendant into custody and keep the defendant safely until the sentence is satisfied.

(d) The judge may suspend, upon condition, in whole or in part, for two years or such stated shorter time as the judge deems appropriate, any fine, penalty or imprisonment imposed against a defendant for a violation of the charter, this code or any ordinance of the city, except a required minimum fine, penalty or imprisonment. If no specific fine, penalty or imprisonment is imposed, such sentence shall be considered to be a probation.

(e) The judge may sentence a defendant to probation for two years, or such stated shorter time as the judge deems appropriate, under such terms and conditions as deemed appropriate, except that any required minimum fine, penalty or imprisonment shall be paid or served as a condition of probation. The judge may impose a probation supervision fee in the amount specified in section 4-20-55, "Court and Vehicle Impoundment Costs, Fees and Civil Penalties," B.R.C. 1981, and payment of any such fee imposed shall be a condition of probation.

(f) judge may impose any of the following conditions for a suspended sentence or probation:

(1) Refraining from violating any federal, state or city law within the probation period following the conviction; unless specifically provided otherwise by the sentencing judge, this is a condition of every suspended sentence or probation;

¹ § 16-11-502, C.R.S.

- (2) Restitution for damage or injury caused during the commission of the violation for which the defendant was convicted;
- (3) Attendance at one or more sessions of a driver training school;
- (4) Performance of a specified number of hours, not exceeding one hundred twenty, of community service tasks that will not injure the defendant's health or welfare. The judge may impose a community service administrative fee in the amount specified in section 4-20-55, "Court and Vehicle Impoundment Costs, Fees and Civil Penalties," B.R.C. 1981, to cover the additional administrative costs;
- (5) Participation in mental health evaluation and treatment; and
- (6) Any other lawful condition reasonably related to the violation.

(g) Upon proof by a preponderance of the evidence of breach of any condition of a suspended sentence or probation after appropriate notice and a hearing thereon, the judge may forthwith execute any suspended sentence or, in case of a breach of probation, impose any sentence that could have been imposed at the time of entry of judgment. The judge shall apply the rules of evidence for civil non-jury cases, but may receive and consider evidence not admissible under such rules if it possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs.

(h) The judge may stay execution to enable a defendant to pay a fine or penalty at a later date or in installments. If a defendant fails to meet the terms of the stay of execution allowed under this subsection, the judge shall issue a writ of execution and place the defendant in jail until such sentence is paid or satisfied.

(i) Every person against whom any fine or penalty is assessed under the charter, this code or any ordinance of the city who refuses or neglects to pay it when demanded or violates any condition placed thereon by a judge may be committed to jail.

(j) A defendant imprisoned for refusing to pay a fine or penalty satisfies such fine at a rate set by the judge, but in no event at less than \$6.00 per day of twenty-four hours, which is the rate if no rate of satisfaction is set forth. But no person shall be imprisoned under the terms of this section for failure to pay a fine or penalty or satisfy the terms of the stay of execution or installment payment if such person satisfactorily demonstrates to the judge that the person has no estate whatsoever from which to pay such fine or part thereof, in which case the judge shall discharge the person from such fine or penalty.

Ordinance Nos. 4879 (1985); 5760 (1995); 7240 (2002)

2-6-38. Confinement.

The city shall use the jail of Boulder County for confinement of any person taken into custody for violation of the charter, this code or any ordinance of the city or imprisoned by order of the judge. In an emergency or civil disorder or if the city manager determines that there is insufficient room in the county jail or other places where prisoners are confined, the manager may designate temporary places of booking, temporary detention or confinement, but shall not maintain them beyond a reasonable time after the emergency, civil disorder or space limitation ends.

**Chapter 7
Code of Conduct¹**

2-7-1. Purpose, Legislative Intent and Findings.

- (a) Purpose: The purpose of this chapter is to protect the integrity of city government by:

¹ Adopted by Ordinance No. 4677. Amended by Ordinance Nos. 5396, 7286. Derived from Ordinance No. 3792. Repealed and reenacted by Ordinance No. 7442.

- (1) Defining and forbidding certain conflicts of interest that if left unchecked tend to compromise the ability of elected and appointed public officials and public employees to perform their duties without improper financial influence.
 - (2) Defining and discouraging certain actions that may create an appearance of impropriety that undermines public trust in the accountability and loyalty of elected and appointed public officials and employees.
 - (3) Protecting the integrity of city government by providing standards of conduct and guidelines for elected and appointed public officials and public employees to follow when their private interests as residents conflict with their public duties.
 - (4) Fostering public trust by defining standards of honest government and prohibiting the use of public office for private gain.
- (b) Legislative Intent: It is the intent of the city council to:
- (1) Prohibit public officials and public employees from acting on any matter in which he or she may have a conflict of interest.
 - (2) Establish aspirational guidelines to encourage public officials and public employees to avoid any appearance of impropriety.
 - (3) Require adherence to any provision of state or federal law that imposes a higher standard of conduct than this chapter.
- (c) Findings: The city council finds and determines that this chapter is necessary to protect the public health, safety and welfare of the residents of Boulder.

2-7-2. Conflicts of Interest Prohibited.

- (a) Conflicts Prohibited: No public official or public employee shall make or participate in the making of any official action in which he or she knows or should have known that he or she would have a conflict of interest.
- (b) Disclosure Required: Each public official or public employee shall disclose any conflict of interest and disqualify him or herself from participating in the relevant action as provided in section 2-7-10, "Disclosure and Recusal Procedure," B.R.C. 1981.

2-7-3. Use of Public Office or Confidential Information for Financial Gain.

- (a) Use of Position for Gain Prohibited: No city council member, employee or appointee to a city board, commission, task force or similar body shall use his or her public office or position for financial gain.
- (b) Use of Confidential Information for Financial Gain Prohibited: No city council member, employee or appointee to a city board, commission, task force or similar body shall use or disclose confidential information obtained as a result of holding his or her public office or position, to obtain financial gain, whether for personal gain; gain for his or her relative; gain of any property or entity in which the official or employee has a substantial interest; or gain for any person or for any entity with whom the official or employee is negotiating for or has any arrangement concerning prospective employment.

2-7-4. Duty to Maintain the Confidentiality of Privileged Information.

- (a) Duty of a Member of City Council, Board, Commission, Task Force or Similar Body: No city council member or appointee to a city board, commission, task force or similar body shall disclose privileged or confidential information without a public majority vote granting the permission of the council or similar body that holds the privilege. The sanction for a member of the city council, board, commission, task force or similar body shall be censure of the body, reached by a majority vote of the body, not including the member charged with disclosing such confidential information.

(b) Duty of a City Employee: No city employee shall disclose privileged or confidential information, obtained as a result of holding his or her public office or position, unless the employee has first received approval by the city manager acting upon the advice of the city attorney.

2-7-5. Gifts to Officials and Employees.

(a) Gifts Prohibited: No city council member or appointee to a city board, commission, task force or similar body or city employee or relative of such employee or official shall accept anything of value including, without limitation, a gift, a favor or a promise of future employment if:

- (1) The official or employee is in a position to take official action with regard to the donor; or
- (2) The city has or is known to be likely to have a transactional, business or regulatory relationship with the donor.

(b) Exceptions and Items Not Considered Gifts: The following shall not be considered gifts for purposes of this section, and it shall not be a violation of this chapter for a person to accept the same:

- (1) Campaign contributions as permitted by law;
- (2) An unsolicited, occasional nonpecuniary gift of a maximum amount of \$50.00 or less in value. The maximum amount will be adjusted on January 1, 2006, and annually thereafter to reflect changes in the United States Bureau of Labor Statistics Consumer Price Index for the Denver-Boulder Consolidated Metropolitan Statistical Area for all Urban Consumers, All Goods or its successor index;
- (3) A gift from a relative;
- (4) An award, publicly presented, in recognition of public service;
- (5) Reasonable expenses paid by other governments or governmentally related organizations for attendance at a convention, fact-finding mission or trip or other meeting if the person is scheduled to deliver a speech, make a presentation, participate in a panel or represent the city;
- (6) Items which are similarly available to all employees of the city or to the general public on the same terms and conditions; and
- (7) A single unsolicited ticket given to a city council member and valued at not in excess of \$150.00 to attend events open to the public on behalf of the city, such as awards dinners, nonprofit organization banquets and seminars, provided that:
 - (A) The ticket is offered only to the council member and has no resale value; and
 - (B) The ticket is not offered by a commercial vendor who sells or wishes to sell services or products to the city; and
 - (C) The ticket is not for a sporting event.

2-7-6. Prior Employment, Outside Employment and Subsequent Employment.

(a) Prior Employment: No person shall be disqualified from service with the city as an official or employee solely because of his or her prior employment. Officials and employees shall not take official action with respect to their former employers for a period of six months from the date of termination of the prior employment.

(b) Disclosure of Employment and Other Business Activities: All officials and employees, other than elected officials, shall report existing or proposed outside employment or other outside business interests that may affect their responsibilities to the city in writing to their appointing authorities prior to being appointed or hired. After being appointed or hired, all such people shall report any changes of employment or changes to outside business interests that may affect the person's responsibilities to the city, within thirty days after accepting the same. An employee that has received permission from the city manager may engage in outside employment or outside business interests.

(c) Disclosure By City Council Members: Members of the city council shall report any change in their employment status that could give rise to a conflict of interest under this chapter.

(d) Activities That Occur After Termination of Employment or Office: No former official or employee shall seek or obtain employment concerning matters upon which he or she took official action during his or her service with the city for six months following termination of office or employment. This provision may be waived by the city council or the city manager.

(e) Participation of Former Officials or Employees: No former official or employee shall appear before, or participate in, a city board, commission, task force or similar body on which he or she was a member or served directly as an employee concerning any matter or on which he or she took official action during his or her service with the city for twelve months following termination of office or employment. This prohibition may be waived by the city council by appointment or vote. This prohibition shall not apply to persons who appear before the city in their capacity as an elected official following termination of their office or employment with the city.

(f) Participation in Litigation After Termination: No former official shall engage in any action or litigation in which the city is involved on behalf of any other person or entity, if the action or litigation involves a matter upon which the person took official action during his or her service with the city for twelve months following termination of service with the city.

2-7-7. Employment of Relatives.

(a) No official or employee shall appoint, hire or advocate the appointment or hiring by the city any person who is his or her relative. In the event that an employee is concerned that the employee's decision to appoint, hire or advocate the appointment or hiring by the city a person who is the employee's relative may cause an appearance of violating this section, the employee may request that the city manager make such decision on the employee's behalf. Council-appointed officers may request the city council to make such an appointment or hiring decision on their behalf.

(b) The city may enter into transactions with companies, corporations or other business organizations that employ a relative of a city official or employee, provided that:

- (1) The official or employee does not participate in the decision making that leads to hiring the company, corporation or other business organization that employs his or her relative; or
- (2) The business organization is a publicly-traded corporation that provides its services or products to the city on nondiscriminatory terms justified by the market facts and circumstances of each transaction; or
- (3) The company, corporation or business organization has been doing business with the city for at least one year prior to the date the city official's or employee's relative became employed by the company, corporation or other business organization, and the city official's or employee's relative is not directly employed upon matters involving the city and does not have his or her compensation tied in any manner to the success of the company, corporation, or other business organization, or its ability to obtain business or earn compensation from the city.

2-7-8. Representing Others Before the City Prohibited.

(a) City Council Members Barred From Representing Others: No city council member shall appear on behalf of himself or herself or another person, before the city council or any city board, commission, task force or similar body. A city council member may be affiliated with a firm appearing on behalf of or employed by another person concerning any transaction with the city before such a body if the council member discloses the situation and recuses himself or herself pursuant to section 2-7-10, "Disclosure and Recusal Procedure," B.R.C. 1981.

(b) Board, Commission or Task Force Members Barred From Representing Others: An appointee to a city board, commission, task force or similar body may appear or be affiliated with a firm appearing concerning any transaction with the city under the following circumstances:

- (1) An appointee may appear on his or her own behalf before the body of which he or she is a member to represent his or her personal interests, if the appointee discloses the situation and recuses himself or herself pursuant to section 2-7-10, "Disclosure and Recusal Procedure," B.R.C. 1981, or before the city council;
- (2) An appointee may appear on behalf of another person before any city body except the city council or the body of which the appointee is a member;
- (3) A firm with which an appointee is affiliated may not appear on behalf of or be employed by another person concerning any transaction before the city council or the body of which the appointee is a member unless the appointee discloses the situation and recuses himself or herself pursuant to section 2-7-10, "Disclosure and Recusal Procedure," B.R.C. 1981.

(c) **City Employees Barred From Representing Others:** No city employee shall appear on behalf of or be employed by another person concerning any transaction with the city or before the city council or any city board, commission, task force or similar body. An employee may appear before such a body on his or her own behalf or on behalf of such employee's spouse, parent or child. Nothing in this chapter shall be deemed to prohibit the city manager from establishing additional policies and regulations to prevent conflicts of interest between city employees and the city.

(d) **City Council Members and Municipal Court:** No city council member who is an attorney shall appear on behalf of or be employed by another person or be affiliated with a firm appearing on behalf of or employed by another person concerning any matter before the municipal court.

(e) **City Employees and Municipal Court:** No city employee who is an attorney shall appear on behalf of or be employed by another person or be affiliated with a firm that appears on behalf of or is employed by another person concerning any matter before the municipal court. A non-attorney employee may appear before the municipal court on his or her own behalf, and an employee other than a municipal court judge may appear on behalf of such employee's spouse, parent or child to the extent otherwise allowed by law. This authority is intended to allow employees to assist family members in matters before the municipal court to the extent permitted by law but not to promote the unauthorized practice of law.

(f) **Board, Commission or Task Force Member and Municipal Court:** An appointee to a city board, commission, task force or similar body may appear before the municipal court and may be affiliated with a firm appearing before the municipal court.

(g) **Consent to Sue:** No city council member or appointee to any city board, commission, task force or similar body shall be a party or by himself or herself or as an affiliate of a firm appear on behalf of a party in a civil law suit in which the city is an adverse party, unless the member or appointee first obtains the consent of the city council.

Ordinance No. 7517 (2007)

2-7-9. Appearances of Impropriety Discouraged.

(a) These guidelines are intended to establish ethical goals and principles to help city council members, employees and appointees to a city board, commission, task force or similar body to determine if their actions may cause an appearance of impropriety that will undermine the public's trust in local government.

(b) Violations of this section shall not constitute a violation of this chapter. Compliance with this section will not constitute a defense for violation of another subsection or section of this chapter.

(c) A city council member, employee or appointee to a city board, commission, task force or similar body who determines that his or her actions may cause an appearance of impropriety should consider, but is not required to, disclose and recuse as prescribed by section 2-7-10, "Disclosure and Recusal Procedure," B.R.C. 1981, in the following circumstances:

- (1) If the person is an employee of a state or federal government entity with a substantial interest in any transaction with the city;

- (2) If the person has a close friend with a substantial interest in any transaction with the city, and the council member, appointee or employee believes that the friendship would prevent such person from acting impartially with regard to the particular transaction;
- (3) If the person has an interest in any transaction with the city that is personal or private in nature that would cause a reasonable person in the community to question the objectivity of the city council member, employee or appointee to a city board or commission;
- (4) If the person is called upon to act in a quasi-judicial capacity in a decision regarding any of the situations described in paragraphs (c)(1), (c)(2) and (c)(3) of this section; or
- (5) If the person owns or leases real property within six hundred feet from a parcel of property that is the subject of a transaction with the City upon which he or she must make a decision, and is not required to receive official notice of a quasi-judicial action of the City.

Ordinance No. 7453 (2006)

2-7-10. Disclosure and Recusal Procedure.

(a) Disclosure and Recusal: No person with a conflict of interest pursuant to subsection 2-7-2(a), B.R.C. 1981, and no person described in subsection 2-7-8(a) or (b), B.R.C. 1981, shall fail to give written notice of the interest described in such subsection to the city council or the city board, commission, task force or similar body of which the person is a member and the city manager as soon as reasonably possible after the interest has arisen. However, no written notice is required if such person discloses the conflict of interest on the record of a public meeting of the city council or the city board, commission, task force or similar body of which the person is a member. The interested council member, employee or appointee shall thereafter:

- (1) Refrain from voting upon or otherwise acting in an official capacity in such transaction;
- (2) Physically absent himself or herself from the room in which a matter related to such transaction is being considered; and
- (3) Not discuss any matter related to such transaction with any other member of the council, board, commission, task force or similar body of which the person is a member.

(b) Recusal by the Council, Board, Commission, Task Force or Similar Body: The city council and any city board, commission, task force or similar body may order recusal of one of its members if that member has an obligation to do so under this chapter and has failed to do so. Such an order is valid if reached after majority vote of the members of the body, not including the member whose recusal is sought, based on competent evidence.

2-7-11. Enforcement.

- (a) Violations Prohibited: No person shall violate the requirements of this chapter.
- (b) Complaints: A complaint alleging a violation of this chapter may be initiated by any of the following:
 - (1) Complaints Initiated by the City Manager or City Attorney: The city manager or city attorney may initiate an investigation of any city employee, other than those directly reporting to the city council, if facts are alleged to the city manager in any form that, if true, would constitute a violation of the provisions of this chapter.
 - (2) Complaints Initiated by a Resident or City Employee: A resident of the City or any city employee may initiate an investigation of any city council member, employee or appointee to a city board, commission, task force or similar body by filing a sworn statement with the city clerk setting forth facts which, if true, would constitute a violation of a provision of this chapter.
 - (3) Complaints Initiated by the City Council: The city council may initiate an investigation of any of its employees, and of any city council member or appointee to a city board, commission, task force or similar

body if facts are alleged to the council that, if true, would constitute a violation of the provisions of this chapter.

(c) Investigation of a Complaint: The city manager (for city employees) or the city council (for all others) shall request the city attorney to conduct an investigation regarding a violation of this chapter. The city attorney may request that the city council appoint special counsel to investigate and prosecute any case that may cause the city attorney to have a conflict of interest or may cause an appearance of impropriety under the provisions of this chapter, or may violate any rule regarding professional responsibility.

(d) Response to All Complaints Required: A public official, or body or appointee thereof, conducting an investigation pursuant to subsection (b) of this section shall prepare written findings of fact and conclusions of law in response to all complaints that shall be made available to the public upon completion of the investigation. The response may include a finding that the complaint has no merit, is frivolous, is groundless or is brought for purposes of harassment.

(e) Limitations: No action may be taken on any complaint that is filed later than twelve months after discovery of the facts supporting an allegation that a violation of this chapter occurred.

2-7-12. Sanctions and Remedies for Violation.

(a) Transactions Voidable: If a transaction including but not limited to a contract or sale is consummated contrary to the provisions of subsection 2-7-2(a), B.R.C. 1981, the city council may void the transaction.

(b) Removal by City Council: The city council may remove any of its employees and any member of a city board, commission, task force or similar body that it finds has willfully violated any provision of this chapter.

(c) Sanction Recommendations: If the party conducting an investigation pursuant to section 2-7-11, "Enforcement," B.R.C. 1981, finds that a city council member or an appointee to a city board, commission, task force or similar body or employee has violated any provision of this chapter, the investigator shall provide its findings and recommendations to the city manager or city council, as appropriate, who or which in turn may take any of the following actions:

- (1) In the case of a city council member, a motion of censure;
- (2) In the case of a city employee, a motion for censure or a recommendation that the employee's appointing authority consider disciplining or discharging the employee;
- (3) Removal as provided in subsection (b) of this section; or
- (4) As an alternative or in addition to the sanctions imposed herein, the city council may resolve that any person or entity causing, inducing or soliciting a public official or public employee to violate this chapter may not be involved in any transaction with the City, including but not limited to the award of any city contract, grant, loan or any other thing of value for a period of twelve months or that any such contract, grant, loan or thing of value be terminated, repaid or forfeited.

(d) Civil Remedies: Any person affected by a city transaction may commence a civil action in the District Court in and for the County of Boulder for equitable relief to enforce the provisions of this chapter upon a showing of willful violation of any provision of this chapter. Before filing such an action, the person shall present the claim to the city attorney to investigate in accordance with subsection 2-7-11(c), B.R.C. 1981. The city attorney or appointed special council shall have sixty days to act thereon. No civil action in district court pursuant to this subsection may be commenced later than twelve months after a violation of this chapter is alleged to have occurred.

(e) Criminal Sanctions: The city attorney, or special counsel authorized to act on behalf of the city attorney, acting on behalf of the people of the City, may prosecute any violation of this chapter in municipal court in the same manner that other municipal offenses are prosecuted.

(f) Defense: It shall be a defense to any charge of a violation of this chapter if the city council member, employee or appointee to a city board, commission, task force or similar body obtained an advisory opinion pursuant to section 2-7-

13, "Advisory Opinions and Outside Counsel Appointment," B.R.C. 1981, and was acting in accordance with the advice provided thereby.

2-7-13. Advisory Opinions and Outside Counsel Appointment.

(a) City Attorney to Provide Advisory Opinions: Any city council member, employee or appointee to a city board, commission, task force or similar body may request an advisory opinion of the city attorney whenever a question arises as to the applicability of this chapter to a particular situation. The city attorney's advisory opinion may provide a specific defense from prosecution as set forth in section 2-7-12, "Sanctions and Remedies for Violation," B.R.C. 1981.

(b) Appointment of Outside Counsel: If a significant controversy arises under this chapter, the city attorney may appoint a neutral outside counsel to assist in resolving the issue.

2-7-14. Exemptions from Chapter.

Nothing in this chapter shall be deemed to apply to a city employee or appointee to a city board, commission, task force or similar body who appears before any such body to urge action on a policy or issue of a general civic nature or to the relationship between the city council, the City and a general improvement district. Participation in an improvement district shall not, in and of itself, constitute a conflict of interest for a city council or improvement district advisory committee decision concerning the district.

2-7-15. Definitions.

Affiliated with means an employee, partner, agent, stockholder, joint venturer or corporate director of any business organization or a person who shares office space with such organization.

Appear on behalf of means to act as a witness, advocate or expert or otherwise to support or oppose the position of another person.

Conflict of interest shall mean any situation in which a city council member, an appointee to a city board, commission, task force or similar body, or a city employee:

- (a) Has a substantial interest in any transaction with the City;
- (b) Has a relative with a substantial interest in any transaction with the City;
- (c) Has a substantial interest as an affiliate of a firm with a substantial interest in any transaction with the City;
- (d) Has a substantial interest as an affiliate of a firm appearing on behalf of or employed by a person with a substantial interest in any transaction with the City;
- (e) Is an officer of an organization that has taken an official position on any transaction with the City, unless service on the board of the organization is required by city code, rule or contract;
- (f) Is on the board of directors of an organization that is substantially affected by a transaction with the City, unless service on the board of the organization is required by city code, rule or contract;
- (g) Is affiliated with a law, accounting, planning or other professional firm that has substantial interest in any transaction with the City; or
- (h) Is required to receive official notice of a quasi-judicial action from the City.

Employment means providing personal services as an employee or an independent contractor, with or without consideration.

Gift means any payment, entertainment, subscription, forbearance, service or any other thing of value, rendering or deposit of money, which is transferred to a donee directly or in trust for his or her benefit. *Gift* shall not include campaign contributions as permitted by law.

Official action means any legislative, administrative or quasi-judicial act of any public official or employee including, without limitation, participation in, or influence of, the decision-making process leading up to a vote or final determination.

Public employee or *employee* means any person holding any paid position of employment with the City, but shall not include consultants or contractors who have independent control over their work product.

Public official or *official* means any person holding a position with the City by election and any person holding a position as an appointee of the city council or the city manager serving on any city board, commission, task force or similar body.

Relative means any person related to a public official or an employee by blood, marriage or adoption, through the second degree of consanguinity, including, without limitation, the following: spouse, parents, parents-in-law, children, children-in-law, brothers and sisters, brothers and sisters-in-law, grandparents, grandchildren, aunts, uncles, cousins, nephews and nieces. A separation between spouses shall not be deemed to terminate relationships described above which exist only because of marriage.

Substantial interest means a situation, including, without limitation, a financial stake in the outcome of a decision in which, considering all of the circumstances, would tend to influence the decision of a reasonable person faced with making the same decision.

Transaction means a contract of any kind; any sale or lease of any interest in land, material, supplies or services; or any granting of a development right, any planning, zoning or land use or review process that may precede granting of a development right, license, permit or application. A transaction does not include any decision which is legislative in nature that affects the entire membership of a class or a significant segment of the community in the same manner as the affected official or employee.

Ordinance No. 7795 (2011)

Chapter 8 Purchasing Procedures¹

2-8-1. Legislative Intent.

The purpose of this chapter is to prescribe purchasing procedures that the City will follow in contracting for constructing capital improvements, purchasing tangible property, obtaining insurance policies, purchased services and consulting services and selling obsolete, surplus or unusable city property. To the extent inconsistent with state law, the council intends that these procedures supersede provisions of state law governing city purchasing procedures.²

2-8-2. Definitions.

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

Capital improvement means a fixed public improvement, including, without limitation, streets, alleys, sidewalks, water or wastewater facilities, flood control facilities, traffic control devices, street lighting, parks, public structures and landscaping.

Consulting services means services provided by individuals possessing specialized educational qualifications or practical expertise or professional certification, including, without limitation, architects, engineers, legal counsel, planners, accountants and actuaries.

Purchased services means the purchase of labor, time and effort, other than consulting services, which does not involve the delivery of tangible property or for which the tangible property component is minimal in relation to the

¹ Adopted by Ordinance No. 5723. Derived from Resolution No. 72 and Ordinance Nos. 3550, 3569, 3578, 3659, 3671, 4732, 4879, 5175, 5249.

² §§ 24-91-103 and 38-26-107, C.R.S.

personal services component, as determined by the city manager. This category includes, without limitation, maintenance and repair services and secretarial and clerical services.

Tangible property means personal property and materials, including, without limitation, supplies, equipment, parts, printing and consumable supplies, but not including insurance, real property leases, securities or water rights.

Ordinance No. 5884 (1997)

2-8-3. When Formal Competitive Bidding is Required.

(a) The city manager shall call for formal competitive bids on any of the following purchase categories: tangible property, capital improvement contracts, purchased services, consulting services or insurance policies in an amount of \$50,000.00 or more unless:

- (1) The contract is awarded to a person who has been awarded a contract by another public agency through a competitive bid process within the last year and the unit prices in the city contract do not exceed the unit prices in the public agency contract;
- (2) The contract is for goods to be re-sold by the city at retail; or
- (3) The manager determines that it is not practical and advantageous to call for a competitive bid.

(b) The city manager shall call for formal competitive bids or conduct a public auction for the sale of any item of obsolete, surplus or unusable city property with an estimated value of at least \$5,000.00 or for the sale of more than one item of such property with an estimated accumulative value in excess of \$25,000.00. The property shall be sold to the highest bidder, unless the manager determines that it is not practical and advantageous to do so. The manager may require such bonds or other surety as the manager deems prudent to assure prompt payment. The city council shall be promptly notified by the city manager of any determination to donate or otherwise dispose of any item of city property with an estimated value of at least \$5,000.00 or to donate or otherwise dispose of more than one item with an estimated accumulative value in excess of \$25,000.00, other than through a formal competitive bid or a public auction. The city council may call this determination up for review within fourteen days of receiving notice.

(c) The city manager may call for competitive bids for any product or service.

Ordinance No. 6038 (1998)

2-8-4. Formal Bid Requirements.

(a) Each formal bid submitted to the city shall meet the following conditions:

- (1) Each bid is signed, enclosed in a sealed envelope and filed as stated in the advertisement for the bid.
- (2) No bidder submits more than one bid.
- (3) Each bid is accompanied by a check or bid bond equal to five percent of the bid, to be forfeited to the city if a bid is accepted and the bidder fails to sign a contract within fifteen days of acceptance, unless the city manager determines that it is not practical and advantageous to require a bid bond.

(b) The city manager may require that no bid be withdrawn for up to forty-five days after the date and time set for opening of bids, but a bid may be withdrawn up to twenty-four hours prior to expiration of the deadline for submitting bids.

(c) The city manager may waive technical irregularities in the bid requirements in this chapter or in the advertisement for bids, if the manager finds that such waiver does not compromise the integrity of the bidding process.

2-8-5. Formal Bidding Procedure.

(a) The city manager shall publish a notice of call for bids at least once in a newspaper of general circulation in the city containing:

- (1) A description of the project or work to be performed or the product or service to be purchased;
- (2) The location where copies of plans, specifications and other documents may be examined;
- (3) The time and place where bids will be received and time and place where bids will be opened;
- (4) A statement that the city reserves the right to reject any or all bids and to waive any minor informalities or irregularities therein;
- (5) Time and budget limitations, if applicable; and
- (6) A statement that the proposal is prepared at the submitter's expense and becomes city record and therefore a public record.

(b) Among other conditions in a call for bids, the city manager may require standard brands of tangible property, recycled and environmentally preferable products and a multiple-year relationship of up to five years with the selected bidder.

(c) Bids not submitted by the required deadline are ineligible for consideration and will not be opened, but the city manager may change the deadline at any time.

(d) Bids shall be opened by the director of finance and record or a representative designated by the director at the time and place provided in the advertisement for bids.

(e) Bidders may inspect the bids after they are opened in accordance with provisions of the Colorado Public Records Act 66. However, if the city manager determines that all bids should be rejected and a re-bid may be necessary, the manager may hold the bid in confidence until the re-bid has been completed.

(f) Confidential data, if identified as such, will be held confidential upon request, if the request is made as part of the bid and if the city attorney determines that the data meet the requirements of the Colorado Public Records Act.¹

(g) The city manager is not required to maintain a bid list. The only formal notice of a call for bids is that published in a newspaper of general circulation in the city as prescribed by subsection (a) of this section.

(h) Nothing in this chapter shall preclude the city manager from issuing a call for bids in stages for the purpose of pre-qualifying bidders for projects, tangible property or services required by the city. The city manager may pre-qualify prospective contractors or vendors and maintain a list for particular types of construction, tangible property or services.

Ordinance No. 6038 (1998)

2-8-6. Informal Procedure for Bids or Quotes.

(a) The manager may require an informal competitive bidding or quote procedure for any purchase or contract for which a formal competitive bid is not required under this chapter.

(b) An informal bid or quote requires requests to at least three vendors for prices.

(c) An informal bid or quote does not require detailed specifications or a published notice of call for bids.

(d) Although usually written, informal bids or quotes may be received orally.

(e) Bid bonds are usually not required for informal bids or quotes.

Ordinance No. 6038 (1998)

2-8-7. Selection of Bids for Capital Improvement Contracts and Tangible Project Purchases.

The following criteria and procedures shall apply to capital improvement contracts and tangible property purchases:

¹ § 24-72-203, C.R.S.

(a) The city manager may reject any and all bids but otherwise shall accept the lowest bid satisfying the minimum bid requirements and the responsibility criteria prescribed by subsection (c) of this section. For purposes of this chapter, the definition of "lowest bid" will include consideration of initial cost and, when applicable, life-cycle cost, including, without limitation, maintenance cost, over the normal lifetime of the product and energy-efficiency in consumption of non-renewable fuels.

(b) The city manager shall determine if a bidder satisfies the minimum bid requirements and the responsibility criteria prescribed by subsection (c) of this section. If the manager determines that the lowest bidder does not meet the minimum bid requirements and responsibility criteria, the manager may reject the bid.

(c) In determining whether to accept a bid, the city manager shall consider the following responsibility criteria: the bidder's integrity, financial responsibility, skill, relevant technical expertise, ability to complete the contract promptly and satisfactorily, whether the bidder maintains a permanent place of business, whether the bidder has adequate plant, equipment and support services to perform the contract, whether the bidder has previously performed similar work satisfactorily, whether the bidder is likely to be engaged in work that may impair the ability to finance the work covered by the bid or provide equipment for its proper execution, whether the bidder proposes a reasonable approach to achieve the objectives sought, and whether there have been or are any claims raising a substantial question about the bidder's ability to perform the contract.

(d) The city manager shall encourage the use and procurement of recycled and environmentally preferable products.

2-8-8. Selection of Bids for Consultants, Purchased Services and Insurance.

In determining whether to accept a proposal for consultants' services, purchased services or insurance, the city manager shall determine, based on an evaluation of all of the proposals, which bidder best meets the needs of the city, considering whether each bidder:

(a) Possesses adequate technical and financial resources to perform the project or services or the ability to obtain the resources required for performance;

(b) Possesses necessary experience, organization and technical skill in the relevant fields or the ability to obtain them, including, without limitation, arrangements with subcontractors;

(c) Proposes a reasonable approach to achieve the project or service objectives;

(d) Has a satisfactory record of performance in developing and implementing similar projects or providing similar services in other jurisdictions; and

(e) Will perform the project or services at a reasonable cost, compared with the level of effort to be expended.

2-8-9. Contract Requirements.

(a) The city manager shall execute all contracts for and on behalf of the city.

(b) All contracts shall be approved by the city attorney before they are executed by the city manager, unless the attorney determines that it is not practical and advantageous to do so.

(c) The city manager shall require a performance bond and a labor and material bond or equal security on all capital improvement contracts over \$50,000.00 and may require such bonds or security on capital improvement contracts under \$50,000.00.

(d) The last payment on a capital improvement contract where the total contract amount is \$50,000.00 or more will not be made until at least ten days after a notice of intention to pay is published at least twice in a newspaper of general

circulation in the city and after the city has received a release of statements of claim or liens. Claims against the contract payment shall be filed as prescribed by state law.¹

(e) The contract shall include provisions for retainage of contract sums as prescribed by state law,² and may include provisions for retainage in contracts not covered by state law.

(f) The city may, by contract, require the contractor to waive, release or extinguish its rights to recover costs or damages, or obtain an equitable adjustment, for delays in performing such contract, if such delay is caused, in whole or in part, by acts or omissions of the city or its agents, if the contract provides that an extension of time for completion of the work is the contractor's remedy for such delay. Such a clause is valid and enforceable, any provision of state law to the contrary notwithstanding.³

(g) The city may, by contract, require the contractor to indemnify and hold harmless the city from the city's own precedent, concurrent or subsequent negligence affecting a third party, so long as the injury or damage alleged by such third party also arose from a negligent act or omission of the contractor while working under the contract, or from a breach of the contract by the contractor. Such a clause is valid and enforceable, any provision of state law to the contrary notwithstanding.⁴

Ordinance Nos. 5846 (1996); 6038 (1998)

2-8-10. Debarment or Suspension.

The city manager is authorized to debar or suspend a vendor or contractor for just cause. No vendor or contractor shall be debarred or suspended until an opinion regarding the same has been obtained from the city attorney and until procedures recommended by the city attorney have been followed. The period of debarment shall be determined by the city manager on a case-by-case basis. Reasons for debarment or suspension include, without limitation, the following:

(a) Commission of fraud or a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract or in the performance of such a contract or subcontract;

(b) Conviction or indictment under a state or federal statute of embezzlement, theft, forgery, bribery, falsification or destruction of records or receiving stolen property;

(c) Conviction or indictment under a state or federal antitrust statute;

(d) Failure or default without good cause to perform in accordance with the terms of any contract or unsatisfactory performance of any contract; or

(e) Debarment, disqualification or suspension by another government entity for any reason.

2-8-11. Prohibition of the Purchase of Tangible Property and Services from Persons That Conduct Business in Burma Except in Certain Circumstances.

Repealed.

Ordinance Nos. 5855 (1996); 7254 (2002)

2-8-12. Recycled and Environmentally Preferable Products.

The city manager shall adopt and may amend by rule an affirmative procurement policy for the use by city departments of recycled and environmentally preferable products.

Ordinance No. 5855 (1996)

¹ § 38-26-107, C.R.S.

² §§ 24-91-101 through 24-91-110, C.R.S.

³ This subsection supersedes § 24-91-103.5, C.R.S., and § 24-91-101(2), C.R.S., to the extent it may have any application.

⁴ This subsection supersedes § 13-50.5-102(8), C.R.S.

2-8-13. City Manager May Adopt Rules.

The city manager may adopt rules to interpret and enforce this chapter.

Ordinance No. 5855 (1996)

Chapter 9 Police and Fire Pensions¹

2-9-1. Legislative Intent.

The purpose of this chapter is to provide certain pension benefits for police officers and firefighters hired before April 8, 1978.²

Ordinance Nos. 4995 (1986); 7592 (2008)

2-9-2. Police Pension Benefits.

(a) Police officers who were hired prior to April 8, 1978, and retired on or after January 1, 1987, and their beneficiaries have pension eligibility rights and receive benefits as set forth in The City of Boulder "Old Hire" Police Defined Benefit Plan and Trust Agreement, as amended from time to time.

(b) Police officers who were hired prior to April 8, 1978, and retired prior to January 1, 1987, and their beneficiaries have pension eligibility rights and receive benefits as set forth in Colorado Revised Statutes, Title 31, Article 30.5, and this chapter; provided, however, that any such benefits shall be paid from, and shall remain an obligation of, the Trust Fund established by The City of Boulder "Old Hire" Police Defined Benefit Plan and Trust Agreement, as amended from time to time.

(c) Cost of living adjustments and increases to base pay levels used for determining pension benefits of police officers who were hired prior to April 8, 1978, and their beneficiaries are specified in The City of Boulder "Old Hire" Police Defined Benefit Plan and Trust Agreement, as amended from time to time.

(d) Police officers who were hired prior to April 8, 1978, and retired prior to January 1, 1987, and their beneficiaries shall have pension eligibility rights to receive benefits equal to the greater of the police or fire pension provisions provided by state law.

(e) Police officers who were hired prior to April 8, 1978, and retired prior to January 1, 1987, and who completed twenty years of service as police officers with the city may cease employment with the city at any time thereafter and begin receiving pension benefits after reaching the age of fifty or, alternatively, may retire and receive pension benefits at any time after completing twenty-five years of service.

(f) Benefits to surviving spouses of police officers who were hired prior to April 8, 1978, and retired prior to January 1, 1987, shall continue even if the surviving spouse remarries.

Ordinance No. 7592 (2008)

2-9-3. Firefighter Pension Benefits.

(a) Firefighters who were hired prior to April 8, 1978, and retired on or after January 1, 2000, and their beneficiaries have pension eligibility rights and receive benefits as set forth in The City of Boulder "Old Hire" Fire Defined Benefit Plan and Trust Agreement, as amended from time to time.

(b) Firefighters who were hired prior to April 8, 1978, and retired prior to January 1, 2000, and their beneficiaries have pension eligibility rights and receive benefits as set forth in Article 30.5 of Title 31, C.R.S., and this chapter; provided, however, that any such benefits shall be paid from, and shall remain an obligation of, the Trust Fund

¹ Adopted by Ordinance No. 4995. Derived from Ordinance Nos. 3967, 4392.

² For police officers and firefighters hired after April 8, 1978, see §§ 31-30-801 to 1016, C.R.S.

established by The City of Boulder "Old Hire" Fire Defined Benefit Plan and Trust Agreement, as amended from time to time.

(c) The surviving spouse of a firefighter who was in active service with the city as of January 1, 1990, and who died while either in active service or retired shall receive survivor benefits equal in amount to the pension benefits that the deceased firefighter would have received if he or she had remained alive. If such deceased firefighter had been eligible to receive pension benefits as of the date of his or her death but had not yet retired from active service, for purposes of determining the amount of the survivor benefits, the date of the firefighter's death shall be deemed to be the date of his or her retirement.

(d) Cost of living adjustments and increases to base pay levels used for determining pension benefits of firefighters who were hired prior to April 8, 1978, and their beneficiaries are specified in The City of Boulder "Old Hire" Fire Defined Benefit Plan and Trust Agreement, as amended from time to time.

(e) Firefighters who are members of the Fire Plan who complete twenty years of service as firefighters with the city may cease their employment with the city at any time thereafter and may begin receiving pension benefits after reaching the age of fifty.

(f) Surviving spouses of firefighters who had retired under the provisions of subsection (e) of this section shall not begin to receive survivor benefits until the date upon which the deceased firefighter would have reached the age of fifty.

(g) Benefits to surviving spouses of firefighters who were hired prior to April 8, 1978, and retired prior to January 1, 2000, shall continue even if the surviving spouse remarries.

Ordinance Nos. 7652 (2009); 7681 (2009)

Chapter 10 **Investment of City Funds¹**

2-10-1. Legislative Intent.

This chapter establishes the city's investment scope, objectives, delegation of authority, standards of prudence, reporting requirements, internal controls, eligible investments, diversification, risk and safekeeping and custody requirements for invested funds.

Ordinance No. 5865 (1997)

2-10-2. Scope.

The provisions of this chapter shall apply to all financial assets of the city except bank checking accounts, pension, bond proceeds and reserves or other trust funds. Monies held in bank checking accounts for operating purposes are covered under the provisions of the Colorado Public Deposit Protection Act and under section 2-2-4, "Selection of City Depository," B.R.C. 1981.

Ordinance No. 5865 (1997)

2-10-3. Fund Pooling.

All excess cash, except for cash in certain restricted and special accounts, shall be pooled for investment purposes. The investment income derived from the pooled investment account shall be allocated to the contributing funds based upon the proration their respective average balances bear to the total pooled balance. Interest earnings shall be distributed to the individual funds on a quarterly basis.

Ordinance No. 5865 (1997)

¹ Adopted by Ordinance No. 5585.

2-10-4. Investment Objectives.

The city's principal investment objectives are:

- (a) Preservation of capital and protection of investment principal;
- (b) Maintenance of sufficient liquidity to meet anticipated cash flows;
- (c) Diversification to avoid incurring unreasonable market risks;
- (d) Compliance with any city council directive related to socially or environmentally responsible investing;
- (e) Maximization of funds available for investment;
- (f) Maximization of investment earnings consistent with the objectives outlined in this section and within the provisions of this ordinance; and
- (g) Conformance with all applicable city, state and federal law.

Ordinance No. 5865 (1997)

2-10-5. Delegation of Authority.

(a) The city manager shall be responsible for the investment of all city funds and shall develop written administrative procedures and internal controls for the operation of the city's investment program which are consistent with this chapter. The procedures shall be designed to prevent losses of public funds arising from fraud, employee error, misrepresentation by third parties or imprudent actions by employees of the city.

(b) The city manager may delegate the manager's authority under this chapter to the director of finance and record, who may in turn delegate the authority to conduct investment transactions and manage the operation of the investment portfolio to one or more subordinates under the guidelines of written procedures for the investment program. The manager shall file any delegation to the director with the city clerk, and the city clerk's certificate of the record of delegation shall be sufficient proof of the validity of the delegation for all purposes. No person shall engage in an investment transaction except as provided under the terms of this ordinance.

(c) The city manager may establish an investment committee to review and recommend procedures for the operation of the city's investment program and to assist in monitoring administrative procedures and internal controls.

(d) The city may engage the support services of outside professionals for its financial program, so long as it can be demonstrated that these services produce a net financial advantage or necessary financial protection of the city's resources. Such services may include engagement of financial advisors in conjunction with debt issuance, portfolio management, third party custodial services and appraisals by independent rating services.

Ordinance No. 5865 (1997)

2-10-6. Prudence.

(a) The standard of prudence to be used for managing the city's assets shall be the "prudent investor" rule which states: "Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment considering the probable safety of their capital as well as the probable income to be derived."¹

(b) The overall investment program shall be designed and managed with a degree of professionalism that is worthy of the public trust. The city recognizes that no investment is totally riskless and that the investment activities of the city are a matter of public record. Accordingly, the city recognizes that occasional measured losses are inevitable in a

¹ § 15-1-304, C.R.S.

diversified portfolio and shall be considered within the context of the overall portfolio's return, provided that the portfolio is adequately diversified and that the sale of a security is in the best long-term interest of the city.¹

(c) The city manager as well as authorized investment personnel shall report significant adverse credit changes or market price changes on city-owned securities to the city council in a timely fashion.

Ordinance No. 5865 (1997)

2-10-7. Ethics and Conflicts of Interest.

Elected officials and employees involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program or which could impair, or create the appearance of an impairment of, their ability to make impartial investment decisions. Employees and investment officials shall disclose to the city manager any material personal financial interests they have in securities also owned by the city or in institutions that conduct investment business with the city.

Ordinance No. 5865 (1997)

2-10-8. Authorized Investments.²

(a) All investments of the city shall be made in accordance with state law except as otherwise provided in this chapter. Only the following types of securities and transactions are eligible for use by the city:

- (1) U.S. Treasury Obligations: Treasury bills, Treasury notes, Treasury bonds and Treasury strips with maturities not exceeding ten years from the date of purchase.
- (2) Federal Agency Securities: Debentures and mortgage-backed securities issued by the Government National Mortgage Association (GNMA) with stated final maturities not exceeding ten years from the date of purchase. For the purposes of this section, a weighted average life does not constitute a stated final maturity.
- (3) Federal Instrumentality Securities: Debentures, discount notes, callable securities, step-up securities and stripped principal or coupons with final maturities not exceeding ten years from the date of purchase issued by the following only: Federal National Mortgage Association (FNMA), Federal Farm Credit Banks (FFCB), Federal Home Loan Banks (FHLB), Federal Home Loan Mortgage Corporation (FHLMC) and Tennessee Valley Authority (TVA).
- (4) Commercial Paper: Commercial paper with a maturity not exceeding two hundred seventy days from the date of purchase which is rated at the time of purchase at least A-1+ by Standard & Poor's, P-1 by Moody's or F1+ by Fitch. If the commercial paper issuer has senior debt outstanding, the senior debt must be rated at the time of purchase at least A+ by Standard & Poor's, A1 by Moody's or A+ by Fitch.
- (5) Eligible Bankers Acceptances: Eligible bankers acceptances with a maturity not exceeding one hundred eighty days from the date of purchase, issued by a state or national bank which has a combined capital and surplus of at least \$250,000,000.00, whose deposits are insured by the FDIC and whose senior long-term debt is rated at the time of purchase at least A+ by Standard & Poor's, A1 by Moody's or A+ by Fitch.
- (6) Local Government Investment Pools: Local government investment pools authorized under §§ 24-75-701 and 702, C.R.S., which: a) are "no-load" (i.e., no commission fee shall be charged on purchases or sales of shares); b) have a constant daily net asset value per share of \$1.00; c) limit assets of the fund to investments authorized by State Statute; d) have a maximum stated maturity and weighted average maturity in accordance with Federal Securities Regulation 270-2a-7; and e) have a rating at the time of purchase of at least AAAM by Standard & Poor's, Aaa by Moody's or AAA/V1+ by Fitch.

¹ "Elected or appointed officials or employees of public entities who, in good faith performance of their duties as public officials, comply with the standards established in this part 6 for the investment of public funds in securities shall not be liable for any loss of public funds resulting from such investment." § 24-75-601.4, C.R.S.

² § 11-10.5-101 et seq., C.R.S., Public Deposit Protection Act; § 11-47-101 et seq., C.R.S., Savings and Loan Association Public Deposit Protection Act; § 24-75-601 et seq., C.R.S., Funds Legal Investments for Governmental Units; § 24-75-603 et seq., C.R.S., Depositories; and § 24-75-701 et seq., C.R.S., Local Governments – Local Government Pooling.

- (7) Money Market Mutual Funds: Money market mutual funds registered under the Investment Company Act of 1940 which: a) are "no-load" (i.e., no commission fee shall be charged on purchases or sales of shares); b) have a constant daily net asset value per share of \$1.00; c) limit assets of the fund to U.S. Treasury securities, Federal Instrumentality securities, repurchase agreements collateralized by U.S. Treasury and Federal Instrumentality securities and commercial paper; d) have a maximum stated maturity and weighted average maturity in accordance with Federal Securities Regulation 270-2a-7; and e) have a rating at the time of purchase of at least AAAM by Standard & Poor's, Aaa by Moody's or AAA/V1+ by Fitch.
- (8) Time Certificates of Deposit: Time certificates of deposit in state or nationally chartered banks or savings and loans which are insured by the FDIC with maturities not exceeding five years. Certificates of Deposit which exceed the FDIC insured amount shall be collateralized in accordance with the Colorado Public Deposit Protection Act or Savings and Loan Public Deposit Protection Act, and may only be purchased from financial institutions which have a Highline Data Peer Group Rating of twenty or better in the most recent publication of Highline Data Bank and Savings and Loan Quarterly.
- (9) Repurchase Agreements and Reverse Repurchase Agreements: Repurchase agreements and reverse repurchase agreements with a maturity date of one hundred eighty days or less collateralized by U.S. Treasury securities listed in paragraph (a)(1) of this section or Federal Instrumentality securities listed in paragraph (a)(3) of this section with a maturity not exceeding ten years. For the purpose of this section, the term "collateral" shall mean purchased securities under the terms of the city-approved master repurchase agreement.
 - (A) The purchased securities shall have an original minimum market value including accrued interest of one hundred two percent of the dollar value of the transaction and the collateral maintenance level shall be one hundred two percent. Collateral shall be held in the city's custodian bank as safekeeping agent, and the market value of the collateral securities shall be marked-to-the-market daily based on the current day's bid price.
 - (B) Repurchase agreements and reverse repurchase agreements shall be entered into only with dealers who have executed a master repurchase agreement with the city and who are recognized as primary dealers by the Federal Reserve Bank of New York.
 - (C) Reverse repurchase agreements shall be transacted only with owned securities of the city, and the securities substituted shall be of like kind with a value of at least one hundred two percent of the securities sold.
 - (D) The city may utilize tri-party repurchase agreements provided that the city is satisfied that it has perfected interest in the securities used as collateral, and that the city has a properly executed tri-party agreement with both the counterparty and custodian bank.
- (10) Corporate Bonds: Corporate Bonds issued by a corporation or bank with a final maturity not exceeding three years from the date of purchase, rated at least AA by Standard & Poor's, Aa2 by Moody's or AA by Fitch at the time of purchase by each service that rates the debt. Authorized corporate bonds shall be U.S. dollar denominated, and limited to corporations organized and operated within the United States with a net worth in excess of \$250,000,000.00. Ownership of corporate bonds shall be limited to twenty percent of the total portfolio, with no more than five percent of the portfolio held in any one issuer or its affiliates or subsidiaries.
 - (b) The foregoing list of authorized securities shall be strictly interpreted, and any deviation from this list must be preapproved by the city manager in writing. Securities other than those authorized in this chapter may be held by the city as of the date this chapter is adopted. All new purchases, however, shall be limited as specified in this section.
 - (c) Bond proceeds may, from time to time, be subject to the provisions of the Tax Reform Act of 1986 and federal arbitrage regulations. Due to the complexities of arbitrage law and the necessary immunization of yield levels, the reinvestment of such debt issuance may, upon the advice of bond counsel or financial advisors, deviate from the provisions of this chapter with written approval of the city manager.

(d) Investments shall not be made in any security on which the coupon rate is not fixed from the time the security is settled until its maturity date, other than shares in authorized money market mutual funds or local government investment pools, unless the coupon rate is:

- (1) Established by reference to the rate on a United States Treasury security with a maturity of one year or less or to the United States dollar London interbank offer rate of one year or less maturity, or to the cost of funds index or the prime rate as published by the Federal Reserve; and
- (2) Expressed as a positive value of the referenced index plus or minus a fixed number of basis points.

Ordinance Nos. 5865 (1997); 5983 (1998); 7162 (2001); 7302 (2003); 7361 (2004); 7418 (2005)

2-10-9. Portfolio Maturities and Liquidity.

To the extent possible, investments shall be matched with anticipated cash flow requirements. Unless matched to a specific cash flow requirement, the city will not invest in securities maturing more than ten years from the date of purchase. No more than twenty percent of the city's total portfolio shall be invested in instruments maturing in five years or more, and the city shall maintain at least five percent of its total portfolio in instruments maturing in thirty days or less. The weighted average maturity of city's portfolio shall at no time exceed five years.

Ordinance No. 5865 (1997)

2-10-10. Social Responsibility.

Investments shall be made in accordance with city ordinances and resolutions concerning social or environmental issues.

Ordinance No. 5865 (1997)

2-10-11. Competitive Transactions.

(a) Each investment transaction shall be competitively transacted with broker/dealers who have been authorized by the city. At least three broker/dealers shall be contacted for each transaction and their bid and offering prices shall be recorded. If the city is offered a security for which there is no other readily available competitive offering, authorized investment personnel shall document quotations for comparable or alternative securities.

(b) When purchasing original issue instrumentality securities, no competitive offering will be required, as all dealers in the selling group offer the securities at the same original issue price.

Ordinance Nos. 5865 (1997); 5983 (1998)

2-10-12. Selection of Financial Institutions Acting as Broker/Dealers and Broker/Dealers.

(a) The city manager shall maintain a list of authorized broker/dealers and financial institutions which are approved for investment purposes, and securities shall be purchased only from those authorized firms. To be eligible for authorization, firms which are commercial banks must be members of the FDIC, and all firms, including commercial banks, must also meet at least one of the following criteria:

- (1) Be recognized as a primary dealer by the Federal Reserve Bank of New York;
- (2) Report voluntarily to the Federal Reserve Bank of New York; or
- (3) Qualify under Securities and Exchange Commission (SEC) Rule 15c3-1 (Uniform Net Capital Rule).

(b) Broker/dealers and other financial institutions will be selected by the city manager on the basis of their expertise in public cash management and their ability to provide service to the city's account. Approved broker/dealer representatives and the firm they represent shall be licensed to do business in the state and as such are subject to the provisions of the Colorado Revised Statutes, including, but not limited to, § 24-75-601 et seq., C.R.S.

(c) Each broker/dealer, bank or savings and loan that has been authorized by the city manager shall be required to submit and annually update a broker/dealer information request form specified or approved by the city which includes the firm's most recent financial statements. The director shall maintain a file of the most recent broker/dealer information forms submitted by each firm approved for investment purposes.

(d) The city may purchase commercial paper from direct issuers even though they are not on the approved broker/dealer list as long as they meet the criteria outlined in section 2-10-8, "Authorized Investments," B.R.C. 1981.

Ordinance Nos. 5865 (1997); 5983 (1998); 7302 (2003); 7361 (2004); 7418 (2005)

2-10-13. Selection of Banks and Savings and Loans.

(a) The city manager shall maintain a list of authorized banks and savings and loans which are approved to provide investment clearing and other banking services for the city. To be eligible for authorization, a bank or savings and loan must be a member of the FDIC and qualify as a depository of public funds in the state as defined in § 24-75-603, C.R.S., as evidenced by a certificate issued by the state banking board or the state financial services board.

(b) The city manager shall utilize a commercially available bank rating service to perform a credit analysis on banks and savings and loans seeking authorization. Data obtained from the bank rating services will include factors covering overall rating, liquidity policy, credit risk policy, interest rate policy, profitability and capital policy.

(c) The director shall annually review the most recent credit rating analysis reports performed for each approved financial institution. Banks or savings and loan associations that, in the judgment of the city manager, no longer offer adequate safety to the city shall be removed from the list.

Ordinance Nos. 5865 (1997); 7302 (2003); 7361 (2004); 7418 (2005)

2-10-14. Safekeeping and Custody.

(a) The city manager shall approve one or more financial institutions to provide safekeeping and custodial services for the city. Custodian banks shall be selected on the basis of their ability to provide service to the city's account and the competitive pricing of their safekeeping related services. A safekeeping agreement shall be executed with each custodian bank prior to that bank's engaging in safekeeping services. To be eligible for designation as the city's safekeeping and custodian bank, a financial institution shall qualify as a depository of public funds in the state as defined in § 24-75-603, C.R.S. and be a Federal Reserve member financial institution.

(b) The director shall maintain a file of the credit rating analysis reports performed for each approved financial institution.

(c) It is the intent of the city that all purchased securities be perfected in the name of the city.

(1) All investment securities, except certificates of deposit, money market mutual funds and local government investment pools purchased by the city will be delivered by either book entry or physical delivery and will be held in third-party safekeeping by a city approved custodian bank, its correspondent bank or the Depository Trust Company (DTC).

(2) All Fed wireable book entry securities owned by the city shall be evidenced by a safekeeping receipt issued to the city by the custodian bank stating that the securities are held in the Federal Reserve system in a customer account for the custodian bank which names the city as "customer."

(3) All DTC eligible securities shall be held in the custodian bank's Depository Trust Company participant account and the custodian bank shall issue a safekeeping receipt evidencing the securities are held for the city as "customer."

(4) All non-book entry (physical delivery) securities shall be held by the custodian bank's correspondent bank and the custodian bank shall issue a safekeeping receipt to the city evidencing that the securities are held by the correspondent bank for the city as "customer."

Ordinance Nos. 5865 (1997); 5983 (1998); 7302 (2003); 7361 (2004); 7418 (2005)

2-10-15. Performance Benchmarks.

The city manager shall periodically establish a benchmark yield for the city's investment portfolio, but in no case shall the benchmark be less than the three-month Treasury bill. When comparing the performance of the city's portfolio, all fees and expenses involved with managing the portfolio should be included in the computation of the portfolio's rate of return.

Ordinance No. 5865 (1997)

2-10-16. Reporting.

(a) The city manager shall prepare an annual report to the city council on the investment earnings and performance results of the city's investment portfolio. The report shall include a listing of the investments held by the city and the cost, book value and current market value of the portfolio. The report shall also include any recommendations the manager may have on amendments to the investment policy contained in this chapter.

(b) The city manager shall present to the investment committee, if one has been established pursuant to subsection 2-10-5(c), B.R.C. 1981, at least annually a review of the portfolio's adherence to appropriate risk levels and a comparison between the portfolio's total return and the established investment objectives and goals.

Ordinance Nos. 5865 (1997); 5983 (1998)

Appendix: Council Procedure

Adopted:	February 21, 1982 (by Council motion only)
Effective:	January 1, 1983
Amended:	June 21, 1983
Adopted:	February 21, 1984
Amended:	September, 1984
Amended:	June, 1986
Amended:	March, 1988
Amended:	May, 1990
Amended:	May, 1992
Amended:	June, 1992
Amended:	February, 1994
Amended:	June, 1994
Amended:	February, 1996
Amended:	January, 1999
Amended:	March, 1999
Amended:	May, 2003
Amended:	July, 2003
Amended:	April, 2004
Amended:	November, 2007
Amended:	February, 2011
Amended:	January 2012

COUNCIL PROCEDURE

This procedure is intended to govern the actions of the city council in the general conduct of its business and to serve as a reference in settling parliamentary disputes. In handling routine business, the council may by general consent use a more informal procedure than that set forth in this procedure.

This procedure may be suspended at any time by vote of five council members or of two-thirds of the council members present, whichever is the greater.

CONDUCT OF COUNCIL MEETINGS

I. Presiding Officer: Mayor

The mayor, as chair of the council, is responsible for conducting its meetings in an orderly and democratic manner and assuring that minority opinion may be expressed and that the majority is allowed to rule. At the same time, the mayor retains all of the prerogatives of a duly elected council member: The mayor may make and second motions and take part in discussions and must vote on all matters not involving the mayor's personal financial interest or the mayor's official conduct.

II. Communication With Council

It is very important for the council to hear the views of members of the public. There are several ways in which a person can participate.

- (1) City phone numbers and e-mail addresses are provided to reach all council members.
- (2) Electronic means of communication with and from council members as a group is provided through Hotline and Council Correspondence on the City's website. The Hotline is an electronic means for council members to ask questions of staff and convey information to the public that is posted in a manner that is available to the public on the City's website. Staff responses to Hotline questions of council members are posted on Hotline in order to be available to the public. The City's website contains a Council Correspondence e-mail which directs the comment of the person to each council member and many staff members. The city manager's office directs questions from Council Correspondence to the appropriate staff member for response. Computers are available at city libraries for those who may not be able to view the City's website from other locations. In addition, printed versions of the Hotline and Council Correspondence postings are kept in chronological order and available for public viewing at the City's central records office.
- (3) Open Comment. At the beginning of every formal council meeting, forty-five minutes are set aside for open comment. During the time, members of the public are invited to express their views on any issue, except those set for public hearing later in the meeting. Members of the public who wish to comment on call up items listed under Agenda Item 8 will be added to open comment if they have signed up before 5:45 p.m.
- (4) Public Hearings. Public hearings are held to seek input on a particular ordinance or policy decision. These hearings provide an organized forum to address a particular subject. Statements made during a public hearing become part of the record for council's decision on the issue. Quasi-judicial hearings have different procedures addressed in chapter 1-3. These council procedures do not address procedures for quasi-judicial matters.
- (5) Comment on Motions Made Under Matters. The council will consider motions arising from matters raised by the mayor, members of council, the city manager or the city attorney. No vote will be taken on these motions until the public has been given an opportunity to comment.

III. Agenda

A. Notice. The printed agenda is generally distributed to council members no later than the Thursday preceding the council meetings, whether regular, special or continued meetings. Items will generally not be added, but may be added or deleted with the consent of the mayor. Whenever practicable, notice shall be given of all agenda items by publication of the title or a general description thereof in the Boulder Daily Camera on the weekend preceding the council meeting. However, failure to give such notice shall not invalidate any action taken by the council, and such provision shall not apply at all to items adopted by emergency.

B. Council Agenda Committee (CAC). Items are placed on the agenda by the staff, with the approval of the members of an agenda committee in attendance at a meeting called by the mayor to review the agenda, which normally takes place in the manager's office on Monday mornings. In addition to the mayor and the council member designated as assistant to the mayor (generally referred to as the deputy mayor), the council designates a third council member for six to seven weeks at a time (depending on the council meeting cycle) to serve on the agenda committee. A sign-up list is

circulated to council members, from alternating ends of the council table each time it is circulated, until all time blocks are filled for that time period. Replacements are solicited from all remaining council members whenever an agenda committee member cannot attend a meeting. If more council members wish to attend than there are vacancies, the mayor makes the appointment. Meetings of the agenda committee are open to the public and the press/media, but are not advertised. No more than four council members may attend an agenda committee meeting at any time. "Drop-ins" should notify the mayor in advance whenever possible. Presence of staff members at agenda committee meetings is subject to the discretion of the city manager.

C. Quarterly Agenda Review. At least once a quarter, the agenda committee holds an agenda review to review the successes and the difficulties of the council in dealing with agenda items during the preceding calendar quarter and to schedule agenda items for the next calendar quarter, when such items are known in advance. The agenda committee reports on its agenda review to the council as a whole.

D. CAC Mission. Representing the views of the entire city council, the agenda committee: 1) sets the agenda for council meetings and study sessions; 2) comments on written agenda materials to assure that all reasonable questions anticipated from the public and any member of the council are answered; 3) acts as a sounding board for staff; 4) informs the city council and staff of emerging issues; 5) requests that staff supply information to the council concerning emerging issues; and 6) discusses correspondence, faxes and e-mail to the mayor and the city council and responses to open comment. The agenda committee assigns the responsibility for drafting and signing such responses. Responses are placed in a binder in the council office, so that council members can be assured that the public's concerns have been addressed. But individual council members may respond as well, at their discretion. 7) The agenda committee determines when boards and commissions should be requested to address the council concerning their deliberations, and when matters should be referred back to a board or commission before council action is scheduled. Generally, it is expected that boards and commissions with an adopted mission statement that includes a certain area of concern will be asked to advise council about any agenda item dealing with that area of concern. 8) The agenda committee also establishes check points for council input on important staff projects. 9) Agenda committee minutes are made available to the council on the morning following the day of the agenda committee meeting whenever possible, by e-mail, fax or delivery, as requested by each council member. Recommendations and information are segregated in the minutes. The approved draft agenda is attached.

E. CAC Ground Rules.

1. No Decisions. The agenda committee should not make a "decision" on anything except for specific decisions relating to the council agenda and assignment of correspondence for a response.
2. No References. Agenda committee members should avoid reference to the meeting in debate, as by statements such as: "This was discussed in the agenda committee meeting," or "We dealt with that question in the agenda committee meeting." Above all, there should be no reference to any "decision" having been made by the agenda committee.
3. CAC Communications With Council. If, as a result of an agenda committee meeting, the committee determines that it is necessary to contact the remaining council members to convey information or to obtain advice about proposed staff action, staff should contact each available council member. Council members, including agenda committee members, generally should not be involved in such communications. But this does not restrict any council member from contacting other council members and conveying any information or requesting any advice or action. Agenda committee and other council members may use a telephone (or e-mail or fax) tree to communicate with other council members about any matter, but such process should not substitute for staff action as set forth above, and is subject to the "open meeting" requirements of state law (§ 24-6-402(2)(d)(III), C.R.S.), concerning the use of e-mail, which requires use of the Hotline for any communication involving more than two council members.
4. CAC to Focus on Council Concerns Rather Than Personal Point of View. It is not appropriate for agenda committee members to use the agenda committee meeting to advance their own political agendas or points of view. This is conceded to be difficult to avoid, especially when three council members are discussing an upcoming decision, but it is essential.

5. CAC Not to Indicate Council Support. Prior to approval by the council, the agenda committee and staff are prohibited from indicating any city commitment to city sponsorship or support of an event or to city support for a development proposal.
6. Questions to CAC. Council members are urged to send questions, comments and suggestions to the staff or to members of the agenda committee prior to its meeting. The agenda committee will endeavor to discuss all such questions, comments and suggestions at its meeting.
7. Postponement of Issues. It is acceptable for members of the city council to ask for postponement of issues to accommodate a brief absence, when the rescheduling will not inconvenience other council members and the individual council member has a significant interest in the particular issue being decided. However, no council member has a right to require such a change, and the decision of the CAC is generally treated as final, although the council is, as always, the final decision maker.
8. No Rule of Three. Meetings of the CAC shall not be used to indicate a "rule of three" for information/research requests. See section VIII, Research and Study Sessions, subsection A, Information/Research Requests/Rule of Three.
9. Tuesday Meetings. CAC shall not schedule council meetings on dates other than Tuesdays without polling the entire council for their availability.

F. Consent Items, Urgent Items, Time Budget and Order of Agenda. The CAC designates potential consent items, so that they can be dealt with in a summary fashion. Although consent items are separately listed on the agenda, the mayor asks for any objection from the city council, and, hearing none, requests a motion to approve the consent agenda. The CAC also designates urgent items, for which delay is not possible or inadvisable, so that the council can deal with such items prior to adjournment. The CAC sets the order of the agenda.

IV. Council Meeting Agenda

Council meetings shall be conducted as follows:

1. Call to Order and Roll Call. Meetings are generally called to order at 6:00 p.m. sharp.
2. Open Comment.
 - a. Time for open comment on any subject not scheduled for public hearing is provided for at each regular business meeting of the council. Up to forty-five minutes is provided at the beginning of the meeting. If all of the speakers that want to speak to the council on any topic not scheduled for public hearing cannot speak during that time, additional open comment time is on the council's agenda later in the business meeting, after the items with public hearings have been heard. During open comment, an individual speaker can speak for up to three minutes. However, a speaker's time may be limited to two minutes if more than fifteen people have signed up to speak. Three or more people can pool their time so one speaker can speak for five minutes if all of the people pooling time have signed up to speak when the spokesperson is called to speak and are in the council chambers when the speakers are called. The five minutes of pooled time can be reduced to four minutes by the presiding officer if the time for individuals has been reduced to two minutes.
 - b. A speaker shall begin by stating his or her name and address. If a speaker believes that providing such information would impair his or her ability to speak to the council, the speaker may disclose as much information as he or she is comfortable with providing.

The following subsection will be effective for any meetings held through March 31, 2011:

- c. Speakers will be called on a first come, first served basis, with speaker sign up commencing at 5:00 p.m. in council chambers.

The following subsection will be effective for any meetings held after March 31, 2011:

- c. Sign up for speakers will be available via the internet as soon as the agenda for the meeting is made available. Individuals may sign up to speak in person at council chambers beginning at 5:00 p.m. on the day of the meeting. All speakers who have signed up prior to 5:45 p.m. on the day of the meeting will be included in a speakers' pool. Speaking slots will be assigned at random from the speakers' pool regardless of the time at which the speaker signed up. Speakers signing up after 5:45 p.m. will be heard after those in the speakers' pool.
3. Consent Agenda. Including generally, but not strictly limited to:
 - a. Minutes. Minutes of previous meetings are approved as made available beforehand, and as corrected by the city clerk, in response to council suggestions, in the discretion of the clerk. This procedure should not be used to alter remarks to express a more considered point of view. Such remarks should be made under item 8, Matters From Mayor and Members of Council. A motion to approve the minutes is deemed to include such corrections, as well as any corrections made at the meeting.
 - b. First Readings. Although generally calendared as part of the consent agenda, the city manager may request that a particular first reading be scheduled early on the agenda when staff/council interaction on the item is important on first reading. See section V, Procedure in Handling Ordinances, Resolutions and Important Motions, subsection C, First Reading.
 4. Call-Up Check-In. Call-ups (typically appeals to council) are considered during item 8, Matters From Mayor and Members of the Council. During call-up check-in, council members are provided an opportunity, and are generally expected, to announce that they have questions or concerns with respect to a potential call-up. This advance warning, while not binding on any council member, would generally indicate those potential call-ups for which staff or interested parties should be present. Notwithstanding the failure of any council member to indicate questions or concerns, council may still consider any potential call-up should a council member change their views during the meeting.
 5. Public Hearings. Expected substantial public comment items are generally placed first on the agenda, in the order of public interest in the item, as anticipated by the council agenda committee, but critical short items may be placed first when deemed appropriate by the agenda committee. Items from the city manager, city attorney or mayor and members of council which are of substantial public interest are placed in this section of the agenda, in the order of public interest. Speaking rules are the same as for open comment. An applicant may request additional time as reasonably required to present his or her case. In response, the mayor may designate a longer time period for applicants, generally not to exceed fifteen minutes and to occur immediately upon the opening of the public hearing, in order to give the public an opportunity to respond. Additional support for applicant's positions should come from individual witnesses. Board or commission members, whose board or commission acted on a matter and who have been designated to speak by the board or commission, will be allowed to speak during staff presentation or at the beginning of the public hearing. A board or commission may designate a person who voted with the majority or a person who voted with the minority or one speaker from each side.
 6. Matters From the City Manager. No final decision may be made under this item, or item 7, Matters From the City Attorney, or 8, Matters From Mayor and Members of Council, until after an opportunity for open comment, as provided in item 9, Comment on Motions Made Under Matters; proposed decisions are announced by the mayor prior to item 9, Comment on Motions Made Under Matters, to allow for public testimony, council questions, staff response, council motion, consideration and debate, and an informed final decision.
 7. Matters From the City Attorney.
 8. Matters From Mayor and Members of Council. At this point, any council member may place before the council matters which are not included in the formal agenda. This item is generally limited to responses to open comment, appointments to boards and commissions, sharing of information, and requests for advice concerning matters pending before other bodies, consideration of call-ups, requests for staff work and requests for scheduling future agenda items. Matters requiring a formal council vote, such as motions to sponsor an

event or to allocate funds, are normally placed on the agenda through the regular agenda review process, rather than dealt with under this item.

9. Comment on Motions Made Under Matters. Prior to council decisions on motions, an opportunity shall be given for public comment on such motions. The rules are the same as for open comment, but with a fifteen-minute total time limit. This time may be extended at the mayor's discretion.
10. Decisions on Motions. Final decisions on items discussed under items 6, Matters From the City Manager, 7, Matters From the City Attorney, and 8, Matters From Mayor and Members of Council.
11. Discussion Items. Discussion items are generally scheduled for study sessions rather than council meetings.
12. Adjournment. The council's goal is that all meetings be adjourned by 10:30 p.m. An agenda check will be conducted at or about 10:00 p.m., and no later than at the end of the first item finished after 10:00 p.m. Generally, absent a deadline which the council cannot affect, no new substantial item will be addressed after 10:30 p.m. No new item shall be introduced after 10:30 p.m. unless a majority of the council members in attendance at that time agree. All council meetings shall be adjourned at or before 11:00 p.m.

V. Rules of Speaking

A. Mayor Directs Meeting. To obtain the floor, a council member or staff member addresses the mayor.

B. Assignment of Floor. To assign the floor, the mayor recognizes by calling out the council member's name. Only one council member may have the floor at a time. A council member shall not speak while another has the floor, except to make a point of order. The mayor generally next recognizes the council member who first asks for the floor after it has been relinquished. The mayor may, in his or her sole discretion, temporarily suspend the rules of speaking in order to permit a direct colloquy between council members with respect to an issue or motion properly before the council. All council members and staff members are requested to direct their remarks to the council action under consideration.

C. Outline of Decisions. The staff and the mayor should attempt to focus discussion of agenda items in accordance with the materials, which should contain a proposed outline of decisions.

D. Minimize Debates Prior to Public Hearings. Council members should minimize debate prior to public hearings and use the period prior to public hearings to ask questions for clarification rather than to lecture, give speeches, score debating points or ask rhetorical questions. The mayor may intervene to avoid extended debate prior to public hearings.

E. Minimize Debates After Decisions. Council members should minimize debate after decisions and move on to the next item.

F. Motions to Table. Tabling motions are generally discussed before they are made, in order to allow for a reasonable amount of council discussion prior to making a non-debatable motion.

G. Early Warning Process. Council members should give early warning to the mayor and the city manager whenever substantial opposition is anticipated to an agenda item, so that an appropriate staff and council response can be prepared.

H. Rotation of Questions. Questions are rotated so that, to the extent practicable, different council members are given the lead on each agenda item and questions are grouped by subject matter whenever it is practicable to do so.

I. Mayor May Intervene. The mayor may intervene in council debate in order to solicit a motion after five to ten minutes of debate, seek to wrap-up discussion when debate seems to be proceeding longer than warranted, determine whether council wishes to postpone council action when more information or staff work appears warranted to facilitate a council decision, and ask council to group follow-up questions by topic.

J. No Surprises. Council members will make every effort not to surprise each other by bringing up something new at a meeting, and rather will give notice of their intention to do so as soon as practical before the meeting.

VI. Procedure in Handling Motions

A. Making a Motion. A council member, after obtaining the floor, makes a motion. (If long or involved, it should be in writing.) The council member may state reasons briefly before making the motion; but may argue the motion only after it has been seconded; and having spoken once may not speak again until everyone who wishes to be heard has had the opportunity to speak, except to answer questions asked by other council members. Having made a motion, a council member may neither speak against it nor vote against it.

B. Seconding a Motion. Another council member seconds the motion. All motions require a second, to indicate that more than one member is interested in discussing the question. The seconder does not, however, have to favor the motion in order to second it, and may both speak and vote against it. If there is no second, the mayor shall not recognize the motion.

C. Stating the Motion. The mayor states the motion and asks for discussion.

D. Debate. General debate and discussion follow, if desired. Council members, the city manager, the city attorney or the city clerk, when wishing to speak, follow the rules of speaking outlined above. The speaker's position on the motion should be stated directly: "I favor this motion because...", "I am opposed to this because...", etc. Remarks should be addressed to the mayor.

E. Question. The mayor restates the motion and puts the question. Negative as well as affirmative votes are taken.

1. If the mayor is in doubt of the result of a voice vote, the mayor may call for raising of hands or a roll call vote.

2. If any council member is in doubt of the result of a voice vote, the council member may obtain a vote by raising of hands or by roll call by calling for it (without need to be recognized by the mayor).

3. In case of a tie vote, the motion is lost.

F. Result. The mayor announces the result. The motion is not completed until the result is announced.

VII. Procedure in Handling Ordinances, Resolutions and Important Motions

A. Two Readings. All ordinances require at least two readings, since the city charter requires ten days' advance publication in final form. The agenda committee may require similar publication of complex or important motions and resolutions, in order to assure informed public participation.

B. Notice. All documents delivered to council members' residences or electronically prior to any meeting shall be deemed to have been received and read, unless a council member indicates to the contrary during consideration of the matter. In the event that a council member has not received and read the document in question, the mayor shall determine an appropriate course of action, which may consist of an explanation of the substance of the document by a person familiar with its contents, or a recess. Abstentions are not permitted by the city charter under these circumstances.

C. First Reading. On first reading, the clerk reads the title or the general description of the item set forth on the agenda, and the council has an opportunity to ask questions of the staff. Whenever practicable, council members ask first reading questions in writing or by e-mail to "Hotline" in advance of the meeting. Any remaining questions are asked at the meeting. The deadline for first reading questions is noon on the day following the meeting. Complex questions are subject to the "rule of five" for information and research requests set forth in section VIII, Research and Study Sessions, subsection A, Information/Research Requests/Rule of Three. The mayor then requests an appropriate motion. However phrased, an affirmative motion is construed as one to order the item published. Unless otherwise stated in the motion, all publication shall be by title only. The mayor then states the question, followed by proposal of amendments, if any, restates the question if necessary, and puts the question to a vote. After the conclusion of the vote, the mayor declares the item to have been ordered published or to have been rejected for publication. Publication does not constitute substantive approval of an item.

D. Second Reading. On second reading, the clerk reads the title or the general description of the item set forth on the agenda, followed by the staff presentation, and then the council has an opportunity to ask questions of the staff. Thereafter, the mayor opens a public hearing and supervises the public hearing. If any council member wishes, questions

may be asked of persons testifying. Council may consider a response to public testimony at the meeting, and the agenda committee may consider a response the following week, but the normal response is in the council members' actions on the agenda. The mayor then requests an appropriate motion. The motion should be one to adopt the ordinance, and, however phrased, an affirmative motion shall be so construed. Unless otherwise stated in the motion, all publication shall be by title only. The mayor then states the question, followed by discussion by the council, the city manager and the city attorney and dialogue with staff in response to questions raised by the council, followed by debate, proposal of amendments, if any, and consideration thereof in the form of motions. After debate, the mayor restates the question and requests that the clerk conduct a roll call vote. After the conclusion of the roll call vote, the mayor declares the ordinance adopted or defeated.

E. Resolutions. Resolutions are handled in the same manner as the second reading of an ordinance, except that the vote need not be by roll call.

F. Emergencies. Ordinances may be passed by emergency on first or second reading, upon appropriate findings of urgency and need. In the event of passage by emergency on first reading, the first reading is handled in the same manner as the second reading of an ordinance, and the second reading is omitted.

G. Amendments. Non-emergency ordinances which are amended in substance rather than in form on second reading are republished in the same form originally published (either in full or by title only), as amended, and voted on again at a third reading, without further staff presentation or public hearing. The council retains the discretion to set a public hearing on third reading by majority vote. The same procedure applies to later substantive amendments as well.

VIII. Voting

Voting ultimately decides all questions. The council may use any one of the following ways of voting:

A. Voice Vote. All in favor say "aye," and all opposed say "no." The mayor rules on whether the "ayes" or the "nos" predominate, and the question is so decided.

B. Raising of Hands. All in favor raise their hands, and then all opposed raise their hands. The mayor decides which side predominates and notes dissents for the record.

C. Roll Call. The clerk calls the roll of the council members, and each member present votes "aye" or "no" as each name is called. The roll is called in alphabetical order, with the following special provision: On the first roll call vote the clerk shall begin with the first name on the list; on the second vote, the clerk shall begin with the second and end with the first; and so on, continuing thus to rotate the order. This rotation shall continue from meeting to meeting.

IX. Nominations and Elections

A. Nominations. Nominations for mayor and acting mayor (generally referred to as deputy mayor) are made orally. No second is required, but the consent of the nominee should have been obtained in advance. Any person so nominated may at this time withdraw his or her name from nomination. Silence by the nominee shall be interpreted as acceptance of candidacy.

B. Order of Vote. A motion then is made and seconded to close the nominations and acted on as any motion. The voting is accomplished by raising of hands unless there is only one nomination and a unanimous vote for the candidate. The names shall be called in alphabetical order or reverse alphabetical order depending upon a flip of a coin by the clerk, who shall thereafter alternate the order for all further election ballots during the same meeting.

C. Ballots. If it is the desire of the council to use paper ballots rather than a voice vote, such a procedure is proper. However, since there is no provision for a secret vote, each ballot must be signed by the council member casting the vote.

D. Elimination Process. If any of the candidates nominated receives five votes on the first ballot, such person is declared elected. If none of the candidates receives five votes on the first ballot, the candidate (plus ties) receiving the lowest number of votes is dropped as a candidate unless this elimination would leave one candidate or less for the office. If this elimination would leave one candidate or less for the office, another vote is taken, and once again the candidate (plus ties) receiving the lowest number of votes is dropped as a candidate unless this elimination would leave one

candidate or less for the office. In the event that one candidate or less is left for the office after the second vote, a flip of a coin shall be used in order to eliminate all but two candidates for the office.

E. **Impasse Process.** In the event that neither of the two final candidates receives five votes on the first ballot on which there are only two candidates, another vote shall be taken. If no candidate receives five votes on the second such ballot, the candidate who receives the votes of a majority of the council members present shall be declared elected. If no candidate receives such a majority vote, the meeting shall be adjourned for a period not to exceed twenty-four hours, and new nominations and new ballots shall be taken. If no candidate receives five votes on the first ballot at the adjourned meeting on which there are only two candidates, another vote shall be taken. If no candidate receives five votes on the second such ballot, the candidate who receives the votes of a majority of the council members present shall be declared elected. If no candidate receives a majority vote on the second such ballot at the adjourned meeting, a flip of a coin shall be used to determine which of the two final candidates shall be declared elected as mayor or deputy mayor.

F. **Appointment of Board Alternates.** In the event that the Boulder Revised Code provides for the appointment of temporary alternate board members, such members shall be appointed as follows: The most recently departed member of the board needing a temporary alternate, who is eligible and able to serve, shall be appointed. In the event that more than one member departed at the same time, alternates shall be chosen in reverse alphabetical order, with appointments alternating between the eligible and able former members who departed at the same time. In the event that the most recently departed member is not eligible or able to serve, the next previously departed member shall be chosen, applying the procedure above if there is more than one potential appointee. No person shall be eligible for a temporary alternate appointment if he or she was removed from the board by the council. A temporary alternate shall be appointed only when a member's absence either results in the lack of a quorum or may prevent the board from taking action. No person appointed as a temporary alternate shall serve at two consecutive meetings of the board to which he or she is appointed unless it is necessary to complete an agenda item that has been continued to another meeting.

G. **Boards and Commissions.** Elections to fill positions on boards or commissions shall be conducted in the same manner. However, a majority of the council members present rather than a majority of the full council is sufficient to decide an election of this nature. Each board or commission vacancy shall be voted on separately.

H. **Advertising of Vacancies After Partial Terms.** Prior to advertising board and commission vacancies, when a person has already served on the board or commission and is seeking reappointment, council should make the decision of whether or not to advertise that particular vacancy.

X. Research and Study Sessions

A. **Information/Research Requests/Rule of Three.** Requests for information should be directed to "Hotline," or, if a public request is not appropriate, directly to the city manager or the city attorney. Requests for a briefing should be directed to the city manager or the city attorney. A single council member may require the city manager or the city attorney to provide available information at any time or to answer any question concerning an agenda item. The concurrence of three council members is required to assign a matter for research by staff. For staff to spend more time than the city manager or the city attorney considers reasonable in light of other staff time commitments, the concurrence of five council members is required. In such case, the manager or attorney shall report the results of the preliminary research and an estimate of the time required to complete the task as the manager or attorney proposes. In any case, a vote shall be taken at a council meeting, but work may proceed in an emergency pending such vote. The council shall be informed of any such emergency work.

B. **Budget Rule.** A matter shall be placed before the council for decision during the deliberation of the budget by a vote equal to or greater than the number of council members remaining at the meeting after deduction of the majority thereof.

C. **Study Sessions.** Materials for study sessions generally will be made available to the council and the public at least ten days before the date of the study session. Notice will be given as for other council meetings. Written comments received by staff prior to noon on the Thursday preceding study sessions will be forwarded to all council members that evening. Testimony of persons other than staff or consultants or subject-matter experts designated by the city manager is not permitted at study sessions unless a majority of the council members present votes to suspend this rule. The council will give direction to staff at study sessions for the presentation of action items at future regular council meetings.

Summaries of study sessions are placed on the council agenda for approval, including the direction given, any remaining issues and any staff reaction or proposed work plan in response to the study session.

XI. Procedure in Handling Major Capital Improvement Projects

Major capital improvement projects shall be handled, to the extent practicable, in accordance with the City Plans and Projects Handbook, dated November 2007. Failure to follow any aspect of such processes shall not be grounds for any challenge to any city project. Prior to a development review decision by the planning board or approval of the community and environmental assessment process by an advisory board, the council may determine by motion to review the project prior to the decision on the concept review or community and environmental assessment process. If so, the manager will schedule a public hearing and consideration of a motion directing staff concerning: 1) the goals and objectives of the program which will be served by the project, and 2) the conceptual design of the project. For those projects requiring development review, the council will deal only indirectly with the factors which may ultimately be entailed in a development review application under chapter 9-4, "Land Development Review," B.R.C. 1981, in recognition that it may later be called upon to adjudicate such questions on a call-up of a planning board decision.

XII. Council Calendar

The council office maintains and sends at least weekly to council members a calendar of hearings set by city staff and boards and commissions and events at which the mayor or any council member will have a ceremonial or a substantive role. Any council member may attend such hearings and events, but council members may not testify at a board or commission hearing and may be disinvited from ceremonial events by the host. Council members are responsible for notifying the council office of hearings and events for which they are the liaison to the council.

XIII. Council Member Appointments

The council may appoint council members to serve on ad hoc and ongoing intergovernmental committees, such as the Colorado Municipal League Policy Committee, the Denver Regional Council of Governments, the CU/City Oversight Group, the National League of Cities, or the Boulder County Consortium of Cities. Council members may be appointed for staff activities on an ad hoc basis. Appointments shall be made at council meetings, after notice to the council that the appointment will be considered as part of the agenda of the meeting. The mayor appoints one of the members to the Housing Authority and one to the Urban Renewal Authority, in conformity with state law, but council is notified at a council meeting of each such appointment, and the Urban Renewal Authority appointment is subject to council ratification. The council appoints one of its members to the board of directors of the Boulder Museum of Contemporary Art, the Boulder Convention and Visitors Bureau, the Downtown Business Improvement District Board, the Rocky Flats Stewardship Council, the US 36 Commuting Solutions Committee, the Urban Drainage and Flood Control District, the Boulder County Resource Conservation Advisory Board and the board of directors of the Dairy Center for the Arts. The mayor will serve on the Metro Mayor's Caucus and the US 36 Mayors and Commission Coalition. Council members are expected to inform the council of their committee activities and to request advice on important policy issues.

XIV. Parliamentary Procedure

Except as otherwise provided herein or as advised by the city attorney, all matters of procedure are governed by Robert's Rules of Order Newly Revised (2000).

XV. Declarations, Proclamations and Resolutions

A. Mayor to Screen. All matters proposed for council or mayoral action which commemorate a period of time or commend the actions of a person or a group or endorse a position or an idea not directly related to the affairs of the City shall be screened by the mayor.

B. Mayoral Declarations. If a group with substantial local support requests such action, and the mayor determines that there is no substantial political issue concerning such action, the mayor may issue a declaration for the action. Such declaration shall be forwarded to a binder kept for such purpose in the city council office but shall not be placed on the agenda unless the council determines at a meeting by majority vote of the council members present to call up the matter, in which case the action shall be revoked upon the passage of the call-up motion, pending further action by the council at its next regular meeting.

C. Council Proclamations and Resolutions. In extraordinary circumstances, if the group supporting the action determines that it wishes council action rather than a mayoral declaration, and the action otherwise meets the criteria set forth above, the mayor may, if the mayor considers such action appropriate in light of the importance of the action and the additional business on the council agenda, place a proclamation or a resolution on the agenda for council action.

D. Resolutions. Resolutions are appropriate for legislative concerns, including, without limitation, conveyances of positions or ideas to other legislative and administrative bodies. But all legislative actions must be by ordinance.

E. Political Questions. In the event that a substantial political issue is determined to be presented by a proposed declaration or proclamation, the mayor shall not act or place the matter on the agenda, but instead will inform the group supporting the action that the matter will be placed on the agenda only if a majority of the council members present at a meeting of the council so directs. The burden shall be on such group to present the issue to the council. The mayor may request council advice at any time concerning proposed mayoral or council action.

F. Foreign Policy and National Policy Questions. Council shall not act on a foreign policy or national policy issue on which no prior official city policy has been established by the council or the people, unless sufficient time and resources can be allocated to assure a full presentation of the issue.

G. Fund-Raising. Publicity for fund-raising efforts and community events will be deemed inappropriate for council action, although major efforts and events may be commemorated if the majority of the council members present at a meeting of the council so directs.

XVI. Rules of Decorum

A. Council Intent for Rules of Decorum. The City's business is conducted at city council meetings by the elected officials of the City. All council meetings are open to the public, but the public's participation is permitted only at formal council business meetings during the time and in the manner set forth in these rules. Public participation is generally not permitted during study sessions and other informal council meetings, although the public is encouraged to express comments in writing or other communication prior to those meetings. In order for the council to conduct its business in a manner completely open to the public in person, by audio and by video recordings, rules of decorum are necessary. Historically, council meetings have lasted numerous hours which may limit the practical ability for the public to participate and the effectiveness of staff to make presentations and elected officials to discuss issues and make decisions. The intent of these rules is to:

1. Provide a safe and secure setting for council and the public to attend to the City's business.
2. Enable council to conduct its deliberative process without interruption in a manner that can be heard and viewed by all in attendance and recorded for the simultaneous or later viewing by the public.
3. Ensure that the public has a full opportunity to be heard during public hearings and open comment periods of council meetings.
4. Facilitate transparency in the conduct of council meetings so that all persons have the opportunity to observe and hear all of the council discussion and votes.
5. State specific rules so that all may know the rules in advance and be subject to the same rules.
6. Limit interruptions, unreasonable delay or duplication of comments, presentations or discussion.
7. Develop an atmosphere of civility that is respectful of diverse opinions and allows presentation of positions that vary from the position of others at the meeting without insults or intimidation.
8. Balance the need for the council to conduct effective meetings without the meetings extending late into the night or early morning with the need to give a full opportunity for the public to be heard.
9. Facilitate council meetings as business meetings, therefore public comments should relate to the business of the City and, as such, be addressed to the council as a whole, which conducts the business of the City.

10. Adopt these rules of decorum as the standard for conduct of meetings of the city council and staff of the City.

B. Rules of Decorum for the Public. During all times a meeting of the city council is being conducted, the following rules shall apply:

1. Prior to addressing council, a person shall complete a sign-up card for the council record.
2. All remarks to the council shall be at a microphone and only after the speaker is acknowledged by the presiding officer.
3. While in attendance at a council meeting, no attendee shall disrupt, disturb or otherwise impede the orderly conduct of any council meeting by any means in a manner that obstructs the business of the meeting. Disorderly conduct also includes failing to obey any lawful order of the presiding officer to be seated, leave the meeting room or refrain from addressing the council.
4. No attendee shall make threats or other forms of intimidation against any person in the council chambers or meeting room, or possess any weapon or firearm while in the council chambers or meeting room unless the attendee possesses a valid permit meeting all of the requirements set forth in § 18-12-204, C.R.S.
5. In order to maintain the fire code occupancy limits and allow for safe exit, unless addressing the council or entering or leaving the council chambers or meeting room, all persons in the audience shall remain seated in the seats provided. No person shall stand or sit in the aisles, nor shall the doorways be blocked.
6. All persons in the council chambers or other meeting room, including, without limitation, council members, staff and attendees, shall silence all cell phones, pagers and other electronic devices to prevent disruption at the meeting.
7. No person at any council meeting shall be in a state of intoxication caused by the person's use of alcohol.

C. Enforcement of Decorum. The mayor or other presiding officer of the council, with the assistance of the sergeant-at-arms, if any attending, shall be responsible for maintaining the order and decorum of meetings. The mayor or presiding officer may order removed from the council chambers, or other room in which a meeting of the council is occurring, any person who fails to observe these rules of decorum:

1. The mayor or presiding officer may interrupt any speaker who is violating these rules of decorum or disrupting a meeting.
2. The mayor or presiding officer shall attempt to provide a verbal warning to any attendee or particular speaker that may be violating these rules of decorum, but such verbal warning shall not be required as a condition of removing an offender from the council chambers or meeting room.
3. These enforcement provisions are in addition to the authority held by the sergeant-at-arms or any other peace officer in attendance, to maintain order pursuant to the officer's lawful authority.
4. Any person removed from the council chambers or meeting room shall be excluded from further attendance at the meeting from which the person has been removed, unless permission to attend is granted upon the motion adopted by a majority vote of the council.
5. Any person who has been removed from a meeting may be charged with violation of the applicable provision of the Boulder Revised Code.
6. In addition, by vote of the council, any person removed from a meeting may be excluded from attendance at council meetings for thirty (30) days after such removal. A longer period of prohibition from attendance at council meetings may be determined by council by a vote, if the person has been removed from the council chambers or meeting room in the past twenty-four months for violation of these rules of decorum, or the council determines that the attendee's conduct was so severe as to necessitate a longer period of prohibition.

7. A person prohibited from attendance at council meetings may request a hearing to dispute prohibition under the provisions of chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, if the appeal is filed with the manager within ten days of the date of prohibition. The hearing will be before a hearing officer that is appointed by the city manager. The scope of the hearing will be limited to the following: (1) whether there was a prior removal in the past twenty-four months, and (2) the nature and extent of the behavior resulting in the suspension. The hearing officer will forward a recommendation to the council to affirm the sanction, modify the sanction, or to remove the sanction to the city council for its consideration at a subsequent meeting of the council.
8. In addition to any other authority of the mayor or presiding officer, the presiding officer may call a ten-minute recess during which time the members of the council shall leave the meeting room.
9. If necessary for the safety of the council and public, the mayor or presiding officer may order the council chambers or meeting room cleared of all attendees. In such event, the meeting may continue only so long as the proceedings are televised or otherwise recorded so that the proceedings of the meeting are available to the public.
10. Any staff member may request that a police officer assess any person at a council meeting for intoxication. A police officer may also make such an assessment based on personal observation. If, in the officer's professional opinion, the officer has a reasonable suspicion that a person in attendance at a council meeting is intoxicated through the use of alcohol, the officer may exclude that person from further attendance at that meeting. A person excluded shall be readmitted if the person excluded submits to an alcohol breath test and produces a result below .05 blood alcohol level.

D. Rules of Decorum for Council. Members of the council shall attempt to balance the right of the public to know positions of the elected and appointed officials and rationale for decisions with the need for balanced discussion and timely adjournment of the meeting. In order to realize this balance, members shall endeavor to:

1. Articulate questions, opinions, comments and reasons for votes succinctly;
2. Exercise self-discipline by avoiding repeating statements of others, being verbose in expressing opinions or straying off the topic;
3. Allow the presiding officer to manage the meeting and call on members before speaking;
4. Support the presiding officer in enforcement of these rules;
5. Permit other members an opportunity to speak once on an issue before speaking a second time on the same issue;
6. Focus on the issue being discussed rather than disagreement of ideas by using "I" statements and avoiding personal attacks or assuming motives of another;
7. Consider the adopted council goals, staff work plans and limited resources when making requests for delay or additional information;
8. Acknowledge that new topics raised during a meeting by a member of the public or of the council may not have the benefit of all of the necessary background information, may not be presented from a balanced perspective, and decisions in such situations are more often emotionally driven. New topics raised during a meeting are most often best resolved by deferring the decision to the city manager or to a future agenda with direction to staff to provide background materials before the matter is considered at a future meeting. If council desires to take up a matter raised during a meeting, the request should be made and additional information requested under "Matters From the Mayor and Members of Council" portion of the agenda.

E. Interpretation of Rules. These rules are intended to support the intent of the council set forth above. These rules are not to be used to limit public participation or council debate, but to enable the effective functioning of the council. Either the council or the presiding officer may temporarily suspend these rules or grant exceptions in order to effectuate their intent.

