



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: September 21, 2010

AGENDA TITLE:

Items related to SmartRegs:

- 1) Third reading and consideration of a motion to adopt ordinance No. 7724 repealing and reenacting Chapter 10-2, "Housing Code" B.R.C. 1981 to adopt by reference, the 2009 edition of the International Property Maintenance Code (IPMC) with certain amendments and deletions and setting forth related details.
- 2) Third reading and consideration of a motion to adopt ordinance No. 7725 amending Section 4-20-18, "Rental License Fee," and Chapter 10-3, "Rental Licenses," B.R.C. 1981, to provide for comprehensive enforcement of Chapter 10-2, "Property Maintenance Code," B.R.C. 1981, through a system of rental licenses for all dwelling and rooming accommodations in the city rented to tenants and setting forth related details.
- 3) Third reading and consideration of a motion to adopt ordinance No. 7726 amending Chapter 4-4, "Building Contractor License," Chapter 4-20, "Fees," Chapter 10-1, "Definitions," Chapter 10-2, "Property Maintenance Code," and Chapter 10-3, "Rental Licenses," B.R.C. 1981 regarding energy conservation for existing residential rental structures, and setting forth related details.

PRESENTERS:

Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager

Department of Public Works

Maureen Rait, Executive Director
Neil Poulsen, Chief Building Official
Kirk Moors, Senior Plans Examiner

Department of Community Planning and Sustainability

David Driskell, Executive Director
Mary Ann Weideman, Acting Deputy Director of Operations
Kara Mertz, Local Environmental Action Manager
Yael Gichon, Residential Sustainability Coordinator
James Hewat, Historic Preservation Planner

Department of Housing and Human Services

Karen Rahn, Director
Jeff Yegian, Community Development Program Manager

EXECUTIVE SUMMARY:

The purpose of this memo is to provide a brief summary of the Sept. 7 City Council meeting related to the SmartRegs proposal and outline next steps. The SmartRegs proposal includes recommended changes to Boulder's Housing Code and Rental License Code and incorporates energy efficiency requirements as part of the code updates to address Climate Action Plan (CAP) objectives.

Based on the Sept. 7 public hearing and second reading discussions, staff proposes the code amendments described below to update the general provisions of the Housing Code and Rental License Code, as well as to add an energy efficiency requirement to the rental licensing program:

Housing Code

- Adopt Ordinance No. 7724 to repeal and reenact Chapter 10-2, "Housing Code" B.R.C. 1981 to adopt by reference, the 2009 edition of the International Property Maintenance Code (IPMC) with certain amendments and deletions and setting forth related details. (**Attachment A**)

Rental License Code

- Adopt Ordinance No. 7725 to amend Section 4-20-18, "Rental License Fee," and Chapter 10-3, "Rental Licenses," B.R.C. 1981, to provide for comprehensive enforcement of Chapter 10-2, "Property Maintenance Code," B.R.C. 1981, through a system of rental licenses for all dwelling and rooming accommodations in the city rented to tenants and setting forth related details. (**Attachment B**)

Energy Efficiency Code

- Adopt Ordinance No. 7726 to amend Chapters 4-4, "Building Contractor License," Chapter 4-20, "Fees," Chapter 10-1, "Definitions," Chapter 10-2, "Property Maintenance Code," and Chapter 10-3, "Rental Licenses," B.R.C. 1981 regarding energy conservation for existing residential rental structures, and setting forth related details. (**Attachment C**)

Due to substantive changes to the ordinances since first reading, and the subsequent acceptance of the proposed amendments at second reading, a third reading is being held. The proposed implementation date is Jan. 3, 2011, with an energy efficiency compliance date of Jan. 2, 2019 for all rental properties in the City of Boulder. Additionally, due to the complexity of the three amended ordinances, an ordinance including further refinements will be scheduled for Council consideration in November.

Further, a study session is proposed for April 2011 to address issues related to administration and enforcement of the rental license code. This may be in combination with the first SmartRegs energy efficiency compliance report to Council proposed for the same time period.

STAFF RECOMMENDATION:

Suggested Motion Language:

Staff requests Council consideration of this matter and action in the form of the following motions:

Housing Code

Motion to adopt Ordinance No. 7724, repealing and reenacting Chapter 10-2, "Housing Code" B.R.C. 1981 to adopt by reference, the 2009 edition of the International Property Maintenance Code (IPMC) with certain amendments and deletions and setting forth related details.

Rental License Code

Motion to adopt Ordinance No. 7725, amending Section 4-20-18, "Rental License Fee," and Chapter 10-3, "Rental Licenses," B.R.C. 1981, to provide for comprehensive enforcement of Chapter 10-2, "Property Maintenance Code," B.R.C. 1981, through a system of rental licenses for all dwelling and rooming accommodations in the city rented to tenants and setting forth related details.

Energy Efficiency Code

Motion to adopt Ordinance No. 7726, amending Chapters 4-4, "Building Contractor License," Chapter 4-20, "Fees," Chapter 10-1, "Definitions," Chapter 10-2, "Property Maintenance Code," and Chapter 10-3, "Rental Licenses," B.R.C. 1981 regarding energy conservation for existing residential rental structures, and setting forth related details.

SEPT. 7 MEETING SUMMARY:

On Sept. 7, three amended ordinances were considered to update the general provisions of the Housing Code and Rental License Code, as well as to add an energy efficiency requirement to the rental licensing program. The Sept. 7 second reading materials are located at www.bouldercolorado.gov/smartregs (select Current/Past Meetings). Staff presented information related to the three ordinances and Scot Woolley, Environmental Advisory Board representative, presented the board's recommendation. Seventeen speakers addressed this item in the public hearing. After the public hearing was closed, Council requested a staff response to clarifying questions and approved a motion to adopt the three ordinances as amended, substituting the prescriptive list as presented on Sept. 7 and requesting program progress reports every other month beginning in April 2011. The motion was approved as amended 8-0; K.C. Becker absent. Due to substantive changes to the ordinances since first reading, and the subsequent acceptance of the proposed amendments at second reading, a third reading is being held on Sept. 21.

BACKGROUND:

The Background, Community Sustainability Assessments and Fiscal Impacts; Board, Community Working Group, and Public Feedback; and, Analysis for the SmartRegs proposal were provided in the May 18, June 1, July 6 and Sept. 7 memorandums located at www.bouldercolorado.gov/smartregs (select Current/Past Meetings). Additional feedback received after Aug. 19 is included in **Attachment D**.

NEXT STEPS:

The proposed ordinances will go into effect on Jan. 3, 2011; a time frame which will facilitate implementation work such as: public notice; updating application materials, the handbook, the

licensing database, and the Web; preparing and scheduling training workshops, and allowing additional time for workforce development.

Due to the complexity of the three amended ordinances, an ordinance including further refinements will be scheduled for Council consideration in November. Additionally, to address issues related to administration and enforcement of the rental license code a study session is proposed to be scheduled in April 2011. This may be in combination with the first energy efficiency compliance report to Council proposed for the same time period.

Staff will begin reporting the status of energy efficiency compliance to Council on an every other month basis beginning in April 2011 and will provide an Annual Report in April 2012.

The development of a Commercial Energy Conservation Ordinance (CECO) is also being analyzed and will be scheduled for Council consideration in 2011.

ATTACHMENTS:

- Attachment A: Ordinance 7724 to Adopt International Property Maintenance Code (IPMC)
- Attachment B: Ordinance 7725 to Update Rental License Code
- Attachment C: Ordinance 7726 to Adopt Energy Efficiency Code
- Attachment D: Public Correspondence Received After August 19

ORDINANCE NO. 7725

AN ORDINANCE AMENDING SECTION 4-20-18, "RENTAL LICENSE FEE," AND CHAPTER 10-3, "RENTAL LICENSES," B.R.C. 1981, TO PROVIDE FOR COMPREHENSIVE ENFORCEMENT OF CHAPTER 10-2, "PROPERTY MAINTENANCE CODE," B.R.C. 1981, THROUGH A SYSTEM OF RENTAL LICENSES FOR ALL DWELLING AND ROOMING ACCOMMODATIONS IN THE CITY RENTED TO TENANTS AND SETTING FORTH RELATED DETAILS.

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

Section 1. Section 4-20-18, B.R.C. 1981 is amended to read:

4-20-18. Rental License Fee.

The following fees shall be paid before the city manager may issue a rental license or renew a ~~renewed~~-rental license:

- (a) Dwelling and Rooming Units: ~~\$46.00~~ \$70.00 per building.
- (b) Accessory Units: ~~\$46.00~~ \$70.00 per unit.
- (c) To cover the cost of investigative inspections, the city manager will assess to owners or operators a \$250.00 fee per inspection, where the city manager has performed an investigative inspection to ascertain compliance with or violations of this chapter.

Section 2. Section 10-1-1, B.R.C. 1981 is amended as follows:

10-1-1 Definitions.

...

"Baseline inspection" as used in chapter 10-3, "Rental Licenses," B.R.C. 1981, means a physical inspection of a dwelling unit performed by a qualified city-licensed rental housing inspector ~~contractor~~ for the purpose of determining compliance with all required items specified on a rental housing inspection checklist developed by the city manager based on the requirements of chapter 10-2, "Housing Code, Property Maintenance Code," B.R.C. 1981, ~~and provided by the manager to property owners, tenants, housing inspectors and the public upon request. The safety inspection is a component of every baseline inspection.~~

1 ...

2 “~~Safety inspection~~Renewal inspection” means, with respect to any rental housing
3 unit covered by a current rental license, an inspection a combined report of the
4 physical and functional condition of all fuel burning appliances and their
5 appurtenances and a tune-up of those appliances made performed by a qualified
6 heating maintenance person- city-licensed contractor for the purpose of
7 determining compliance with all required items specified on a rental housing
8 renewal inspection checklist that are likely to become noncompliant over time,
9 based on the requirements of chapter 10-2, "Property Maintenance Code,"
10 chapters 3 through 7 section 10-2-10, "Mechanical and Heating Standards,"
11 B.R.C. 1981, and a report on the condition and location of all smoke detectors
12 required by this title and a trash removal plan meeting the requirements of
13 subsection 6-3-3(b), B.R.C. 1981, made and verified by the owner or operator, on
14 a checklist form developed by the city manager based on these requirements and
15 provided by the manager to property owners, tenants, housing inspectors, and the
16 public upon request.

17 Section 3. Chapter 10-3, B.R.C. 1981 is amended to read:

18 **Chapter 10-3 Rental Licenses**

19 **10-3-1 Legislative Intent.**

20 This chapter provides for comprehensive enforcement of chapter 10-2, "~~Housing~~ “Property
21 Maintenance Code," B.R.C. 1981, by establishing a system of rental licenses for all dwelling and
22 rooming accommodations in the city that are rented to tenants.

23 **10-3-2 Rental License Required ~~Prior to~~ Before Occupancy and License Exemptions.**

24 (a) No operator shall allow any person to occupy any rental property as a tenant or lessee or
25 otherwise for a valuable consideration unless each room or group of rooms constituting
26 the rental property has been issued a valid rental license by the city manager.

27 (b) Buildings, or building areas, described in one or more of the following paragraphs are
28 exempted from the requirement to obtain a rental license from the city manager.

(1) Any dwelling unit occupied by the owner, or members of the owner's family and
housing no more than two roomers who are unrelated to the owner or the owner's
family.

(2) A dwelling unit meeting all of the following conditions:

(A) The dwelling unit constitutes the owner's principal residence;

(B) The dwelling unit is temporarily rented by the owner for a period of time
no greater than twelve consecutive months in any twenty-four-month
period;

- (C) The dwelling unit was occupied by the owner immediately ~~prior to~~ before its rental;
- (D) The owner of the dwelling unit is temporarily living outside of Boulder County; and
- (E) The owner intends to re-occupy the dwelling unit upon termination of the temporary rental period identified in subparagraph (b)(2)(B) of this section.
- (3) Commercial hotel and motel occupancies which offer lodging accommodations primarily for periods of time less than thirty days, but bed and breakfast facilities are not excluded from rental license requirements.
- (4) Common areas and elements of buildings containing attached, but individually owned, dwelling units.

10-3-3 Terms of Rental Licenses.

(a) License terms shall be as follows:

- (1) ~~Rental licenses~~ Licenses, other than reduced term licenses issued ~~pursuant to~~ under section 10-3-4, "Reduced Term Rental License," B.R.C. 1981, ~~or~~ temporary licenses issued ~~pursuant to~~ under section 10-3-9, "Temporary Rental License Appeals," B.R.C. 1981, shall expire four years from issuance or accessory dwelling unit or owner's accessory unit licenses governed by paragraph (a)(2) when ownership of this section, shall be valid until the licensed property is sold unless transferred

(A) ~~The license is revoked; or~~

(B) The In addition to any other applicable requirements, new licenses and renewals shall require that the licensee fails to submit to the city manager a completed current safety inspection baseline (for a new license) or renewal inspection report, on forms provided by the city, within four years from the date of initial license issuance and within each successive four-year period thereafter. The safety inspection baseline and renewal inspection report shall:

(i) ~~In t~~ The section of the report concerning fuel burning appliances must be executed by a qualified heating maintenance person certifying compliance with those portions of subsection 10-2-10(e), B.R.C. 1981, for which the report form requires inspection and certification.

(ii) ~~In t~~ The section of the report concerning smoke detectors, is and carbon monoxide alarms must, be executed by the operator certifying that the operator owner or agent inspected the smoke detectors and carbon monoxide alarms in the licensed property and that they complied with the requirements of chapter 10-2, "Housing-Property Maintenance Code," B.R.C. 1981.

(iii) ~~In the~~ The section of the report concerning trash removal must be executed by the operator certifying that the operator has a current valid contract with a commercial trash hauler for removal of accumulated trash from the licensed property in accordance with subsection 6-3-3(b), B.R.C. 1981.

(2) ~~Accessory dwelling units, as defined in section 9-16-1, "General Definitions," B.R.C. 1981, and owner's or accessory units as defined in section 9-16-1, "General Definitions," pursuant to subsection 9-8-5(b), B.R.C. 1981, twelve months have terms of four years~~ from the date of license application for newly constructed units or from the date of prior license expiration for units for which the operator is renewing an unexpired ~~rental~~ license.

(3) Reduced term licenses: as specified in section 10-3-4, "Reduced Term License," B.R.C. 1981

(b) The city manager shall issue separate ~~rental~~ licenses for individual buildings. Such licenses shall cover all dwelling units and rooming units within such buildings. In a building containing attached but individually owned dwelling units, or any other dwelling units which may be separately conveyed, the city manager shall issue separate ~~rental~~ licenses for each dwelling unit. A structure, or group of structures, shall be considered to be a single building if it has been assigned a single street address by the city. If a complex of buildings on one property is under common ownership, and this owner is willing to have a common expiration date for the ~~rental~~ licenses for all dwelling and rooming units, the city manager may consider the whole complex to be the equivalent of a single building for the purposes of licensing and the fee schedule in section 4-20-18, "Rental License Fee," B.R.C. 1981.

(c) Whenever an existing ~~rental~~ license is ~~being~~ renewed, the renewal license shall be effective from the date of expiration of the last ~~rental~~ license if the applicant submits a complete renewal application by or within 90 days after the expiration date, unless the operator provides documentation satisfactory to the city manager, or an affidavit subject to the law against perjury, that no portion of the subject property was rented during any of the time between expiration of the old rental license and issuance of the new rental license, in which case the renewal license shall be effective as of the date of issuance. Licenses not renewed within 90 days will be considered expired, requiring a new baseline inspection report.

10-3-4 Reduced Term Rental License.

(a) The city manager shall issue a reduced term ~~rental~~ license whenever the city manager determines that violations of chapter 10-2, "~~Housing Code~~ Property Maintenance Code," B.R.C. 1981, revealed during an inspection, individually or in combination, demonstrate a failure to maintain the rental property in a safe, sanitary, and clean condition so that the dwelling endangers the health and safety of the occupants, ~~including, without limitation,~~

violations of section 10-2-3, "Unfit Dwellings and Vacation Thereof," B.R.C. 1981, involving property unfit for human habitation, and subsections 10-2-7(a), B.R.C. 1981, involving open sewage, 10-2-7(b), B.R.C. 1981, involving use of a lavatory as a kitchen sink, 10-2-17(e), B.R.C. 1981, involving blocked chimney flues, and 10-2-20(b), B.R.C. 1981, involving cockroaches, or if the city manager determines that there is or has been a violation of a limitation on numbers of occupants or numbers of dwelling units found in title 9, "Land Use Code," B.R.C. 1981, which demonstrates a failure to maintain the rental property in compliance with that title.

(1) For violations of chapter 10-2, "~~Housing Code~~ Property Maintenance Code," B.R.C. 1981, the ~~rental~~ license term shall be reduced to twenty four months.

(2) For violations of title 9, "Land Use Code," B.R.C. 1981, the ~~rental~~ license term shall be reduced to twelve months.

(b) If ~~a person~~ an operator disagrees with the decision of the city manager to issue a reduced term ~~rental~~ license under subsection (a) of this section, such person may appeal the city manager's decision within thirty days after the issuance of the reduced term license, as follows:

(1) For reduced term licenses issued as a result of violations of ~~the provisions of~~ chapter 10-2, "~~Housing Code~~ Property Maintenance Code," B.R.C. 1981, the appeal shall be made as provided in chapter 10-2, section 111 10-2-5, "Means of Appeal ~~Appeals and Variances~~," B.R.C. 1981.

(2) For reduced term licenses issued as a result of violations of ~~the provisions of~~ title 9, "Land Use Code," B.R.C. 1981, the appeal shall be made to the board of zoning adjustment, although the fee amount shall be as specified for an appeal to the board of building appeals.

10-3-5 ~~Rental~~ License Procedure for Newly Constructed Rental Property.

~~Inspections~~ Baseline inspection ~~to determine compliance with the provisions of chapter 10-2, "Housing Code," B.R.C. 1981,~~ are not required ~~prior to~~ before issuance of the first rental license for newly constructed rental property if a ~~rental~~ license application is submitted ~~no later than by or within sixty days one year from after~~ the date of issuance of the first certificate of occupancy or temporary certificate of occupancy, ~~in which case payment of license fees is not required.~~

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

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

(a) Submit a written application for a ~~rental~~ license to the city, on official city forms provided for that purpose, at least thirty days ~~prior to~~ before rental of the property;

1. A rental housing inspector's certification of baseline inspection. The operator shall make a copy of the inspection form available to city staff and tenants of inspected units within 14 days of a request;

2. A report on the condition and location of all smoke and carbon monoxide alarms required by Chapter 10-2 made and verified by the owner or operator; and

3. A trash removal plan meeting the requirements of subsection 6-3-3(b), B.R.C. 1981 made and verified by the owner or operator;

(b) Pay all license fees prescribed by section 4-20-18, "Rental License Fee," B.R.C. 1981, at the time of ~~submittal of~~ submitting the rental license application.

(c) ~~Cause an inspection of the property to be conducted at the operator's expense by a rental housing inspector licensed by the city for such work, and cause the inspector to return to the city manager, in the form provided by the manager, a certification of baseline inspection report, showing compliance with chapter 10-2, "Housing Code," B.R.C. all applicable requirements, 1981, within 12 months before the application. The operator shall make a copy of the inspection checklist available to city staff and tenants of inspected units within 14 days of a request.~~

(d) Take all reasonable steps to notify any occupants of the property in advance of the date and time of the ~~housing code~~ inspection. The operator, or an agent of the operator other than the inspector or any tenant of the unit, shall be present and accompany the inspector throughout the inspection, unlocking and opening doors as required.

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

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

(a) Pay all license fees prescribed by section 4-20-18, "Rental License Fee," B.R.C. 1981, ~~prior to~~ before the expiration of the existing license.

(b) ~~Cause an inspection of the property to be conducted at the operator's expense by a rental housing inspector licensed by the city for such work, and cause the inspector to return to the city manager, in on the forms provided by the manager;~~

1. A rental housing inspector's certification of ~~safety inspection~~ renewal inspection within 12 months before application. The operator shall make a copy of the inspection form available to city staff and tenants of inspected units within 14 days of a request;

2. ~~report showing compliance with all applicable requirements chapter 10-2, "Housing Code," B.R.C. 1981, as of a date no more than sixty nor less than fifteen days before the date of expiration of the existing license within 12 months before~~

1 ~~application. The operator shall make a copy of the inspection checklist available~~
2 ~~to city staff and tenants of inspected units upon written request within 14 days of a~~
3 ~~request. A report on the condition and location of all smoke and carbon monoxide~~
4 ~~alarms required by Chapter 10-2 made and verified by the owner or operator; and~~

5 3. A trash removal plan meeting the requirements of subsection 6-3-3(b), B.R.C.
6 1981 made and verified by the owner or operator.

- 7 (c) Take all reasonable steps to notify in advance all tenants of the ~~rental~~ property of the date
8 and time of the ~~scheduled housing code~~ inspection. The operator, or an agent of the
9 operator other than the inspector or any tenant of the unit, shall be present and accompany
10 the inspector throughout the inspection, unlocking and opening doors as required.

11 **10-3-8 Temporary Rental License.**

12 If the inspection ~~by the rental housing inspector~~ shows that there are violations of chapter 10-2,
13 ~~"Housing Code,"~~ Property Maintenance Code, B.R.C. 1981, in the building, and the operator
14 cannot correct the deficiencies before the housing is to be occupied (in the case of new rental
15 property) or the existing license expires (in the case of a renewal), the operator may apply, on
16 forms specified by the city manager, ~~to the city~~ for a temporary ~~rental~~ license. If the manager
17 finds, based on the number and severity of violations, that such a temporary license would not
18 create or continue an imminent health or safety hazard to the public or the occupants, the
19 manager may issue a temporary ~~rental~~ license. The manager shall specify the duration of the
20 temporary license, ~~which shall be for a period reasonably necessary to make the needed repairs~~
21 ~~and changes. Upon submission to the manager by the operator, receipt of an additional certificate~~
22 ~~of inspection, on forms supplied by the manager, performed by a rental housing inspector,~~
23 ~~showing that correction of the deficiencies have been corrected, and accompanied by an~~
24 ~~additional rental housing license fee, the manager shall issue the rental housing license.~~

25 **10-3-9 Temporary Rental License Appeals.**

26 Any operator denied a temporary ~~rental~~ license, or aggrieved by the period of time allowed for
27 correction, may appeal the denial or the ~~period of time~~ for correction, or both, ~~to the board of~~
28 ~~building appeals within thirty days~~ as provided in chapter 10-2, section 10-2-5111, "Appeals and
Variances," "Means of Appeal," B.R.C. 1981. As to an appeal of the time reasonably required to
correct a violation, the board shall either affirm the city manager's originally prescribed time
period or grant a longer time period to correct the alleged violation.

29 **10-3-10 Time of Rental License Expiration.**

30 Every rental license expires upon the earliest of the following dates:

- 31 (a) The expiration date on the ~~rental~~ license unless temporary authority to rent is allowed
32 under ~~the provisions of~~ section 10-3-8, "Temporary Rental License," B.R.C. 1981, of
33 this chapter;
- 34 (b) Thirty days after the date upon which transfer of ownership of the rental property occurs.
35 However, for purposes of this section and section 10-3-11, "transfer of ownership" shall

not include situations in which a rental property is transferred from ownership by one or more individuals into a ~~Limited~~limited ~~Liability~~liability ~~Company~~company form of ownership, ~~and when~~ if all of the following conditions exist:

- (1) At least one transferring owner is a member of the ~~Limited~~limited ~~Liability~~liability ~~Company~~company;
 - (2) No exchange of consideration takes place as a condition of the transfer; and
 - (3) The transferring owners certify on forms approved by the city manager that there will be no significant change in the persons who manage the rental property or, in the alternative, in the persons who are responsible for managing the rental property.
- (c) The effective date of any order or notice to vacate the rental property issued under any provision of law;
- (d) The expiration of the temporary certificate of occupancy for the rental property if a permanent certificate of occupancy has not been issued; or
- (e) The revocation of the certificate of occupancy for the rental property.

10-3-11 Change of Rental Property Ownership, ~~or Agent,~~ and Rental License Transfer.

- (a) ~~Upon~~ Within sixty days after transfer of ownership of ~~the a~~ property for which a rental there is a current and valid license ~~has been issued and is still current and valid at time of transfer,~~ the new operator of the property shall apply for a ~~rental~~new license ~~within thirty days after the date of transfer of ownership of the rental property.~~ The new operator shall:
- (1) Submit all license fees prescribed by section 4-20-18, "Rental License Fee," B.R.C. 1981, with the application.
 - (2) ~~Cause~~ Submit, in the form provided by the city manager, a certification of baseline inspection ~~of report for the property to be,~~ conducted at the operator's expense by a rental housing inspector licensed by the city for such work, ~~and cause the inspector to return to the city manager, in the form provided by the manager, a certification of inspection showing compliance with chapter 10-2, "Housing Code," B.R.C. 1981, as of a date no more than sixty days before the date of expiration of the existing license.~~ all applicable requirements.
 - (3) Take all reasonable steps to notify all tenants of the ~~rental~~ property of the date and time of the scheduled ~~housing code~~ inspection. The operator, or an agent of the operator other than the inspector or any tenant of the unit, shall ~~be present and~~ accompany the inspector throughout the inspection, unlocking and opening doors as required.
- (b) ~~No~~ Within thirty days after transfer of ownership or change of local agent of a licensed property, the operator shall ~~transfer the ownership, or change the local agent, of a rental property for which a rental license is required, without notifying~~ notify the city manager of the identity and mailing address of the ~~buyer~~new owner or new local agent ~~within fifteen days after the transfer of the property or change of agent.~~

1
2 **10-3-12 Rental License Fees.**

- 3 (a) Applicants for any rental housing license, and operators ~~who are~~ renewing an existing
4 rental housing license, shall pay the license fees prescribed by section 4-20-18, "Rental
5 License Fee," B.R.C. 1981, upon submission of any ~~rental housing~~ license application.
- 6 (b) If an operator of rental property legally changes the use of a structure by adding units for
7 which such operator receives a ~~rental~~ license under this chapter separate from the ~~rental~~
8 license for the remainder of the rental property, the operator shall apply for a single rental
9 license to cover the entire property no later than thirty days before the expiration date of
10 the ~~rental~~ license that first expires. There shall be no additional fee assessed for the
11 dwelling units or rooming units that were added to the structure at the time the separate
12 ~~rental~~ licenses are consolidated.
- 13 (c) If an operator of rental property reduces the number of dwelling units or rooming units
14 within a rental property, the operator is not entitled to a refund of any fee previously paid.
- 15 (d) The city manager shall charge no license fee for the following rental dwelling units, so
16 long as such units have also been individually certified to the city manager as low income
17 rental property by the housing authority of the City of Boulder, and such certification is
18 valid at the time the fee would otherwise be due:
- 19 (1) Units owned by or leased and operated by the housing authority of the City of
20 Boulder;
 - 21 (2) Units owned by or leased and operated by an entity which has a current valid tax
22 status determination by the United States Internal Revenue Service as a section
23 501(c)(3) tax exempt organization and such units are permanently affordable, as
24 that term is defined in chapter 9-14~~16~~, "~~Residential Growth Management System~~
Definitions," B.R.C. 1981; or
 - 25 (3) Units covered by an assistance payment contract ~~pursuant to~~ under 49 U.S.C.
26 1437(b), "Lower-income housing assistance - authorization for contracts for
27 assistance payments for existing dwellings."
 - 28 (4) If a housing complex under common ownership operates a fixed number or
percentage of units as qualifying units under this subsection, but the individual
units occupied by low income tenants vary over time, the license and fee waiver
allowed by this subsection shall be applied pro rata to the total amount.

24 **10-3-13 ~~Posting~~ Availability of Rental License.**

25 No operator who holds a rental license shall fail to make the rental license available to anyone
26 within 72 hours of receiving a request. post the license, or a true copy thereof, conspicuously
27 upon the premises for which such license has been issued. Posting of a rental license at the
rental property is not required.

1 **10-3-14 Local Agent Required.**

2 Whenever any rental property is required to be licensed under this chapter, and neither the owner
3 nor the operator is a natural person domiciled within Boulder County, Colorado, the owner shall
4 appoint a natural person who is domiciled within Boulder County, Colorado, to serve as the local
5 agent of the owner and the operator for service of such notices as are specified in chapter 10-2,
6 section 108, "Unsafe Structures and Equipment," and section 109, "Emergency Measures,"
7 B.R.C. 1981, and notices given to the local agent shall be sufficient to satisfy any requirement of
notice to the owner or the operator. The owner shall notify the city manager in writing of the
appointment within five days of being required to make such an appointment, and shall thereafter
notify the city manager of any change of local agent within fifteen days of such change.

8 **10-3-15 City Manager May Order Premises Vacated.**

- 9 (a) Whenever the city manager determines that any rental housing is in violation of this
10 chapter or of chapter 10-2, "~~Housing Code,~~" Property Maintenance Code, B.R.C. 1981,
11 and has caused a summons and complaint requiring the operator to appear in municipal
12 court to answer the charge of violation to issue, and the summons cannot be served upon
13 the operator despite reasonable efforts to do so, or, having been served, the operator has
14 failed to appear in the municipal court to answer the charges or at any other stage in the
15 proceedings, or, having been convicted or entered a plea of guilty or no contest, the
16 operator has failed to satisfy the judgment of the court or any condition of a deferred
17 judgment, then the city manager may, after thirty days' notice and an opportunity for a
18 hearing to the tenants and the operator, require that the premises be vacated, and not be
19 reoccupied until all of the requirements of the ~~housing code~~ Property Maintenance Code
20 and the rental licenses code have been satisfied and a rental housing license is in effect.
21 No person shall occupy any premises as a tenant after ~~that person receives~~ receiving
22 actual or constructive notice that the premises have been vacated under this section.
- 23 (b) Any notice required by this section to be given to an operator is sufficient if sent by first
24 class or certified mail to the address of the last known owner of the property as shown on
25 the records of the Boulder County Assessor as of the date of mailing. Any notice to the
26 tenant required by this section ~~to be given to a tenant~~ is sufficient if sent by first class or
27 certified mail to or delivered to any occupant at the address of the premises and directed
28 to "All Tenants."
- (c) The remedy provided in this section is cumulative and is in addition to any other action
the city manager is authorized to take.

25 **10-3-16 Administrative Remedy.**

- 26 (a) If the city manager finds that a violation of any provision of this chapter or chapter 10-2,
27 "~~Housing Code,~~" Property Maintenance Code, B.R.C. 1981, exists, the manager, after
28 notice to the operator and an opportunity for hearing under the procedures prescribed by
chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, may take any one or more of the
following actions to remedy the violation:

- (1) Impose a civil penalty according to the following schedule:
- (A) For the first violation of the provision, \$150.00;
 - (B) For the second violation of the same provision, \$300.00; and
 - (C) For the third violation of the same provision, \$1,000.00;
- (2) Revoke the rental license; and
- (3) Issue any order reasonably calculated to ensure compliance with the provisions of this chapter and chapter 10-2, "~~Housing Code~~," Property Maintenance Code." B.R.C. 1981.
- (b) If notice is given to the city manager by the operator at least forty-eight hours before the time and date set forth in the notice of hearing on any violation that the violation has been corrected, the manager will reinspect the building. If the manager finds that the violation has been corrected, the manager may cancel the hearing.
- (c) The city manager's authority under this section is in addition to any other authority the manager has to enforce this chapter, and election of one remedy by the manager shall not preclude resorting to any other remedy as well.
- (d) ~~If any person fails or refuses to pay when due any charge imposed under this section, the~~ The city manager may, in addition to taking other collection remedies, certify due and unpaid charges to the Boulder County Treasurer for collection as provided by section 2-2-12, "City Manager May Certify Taxes, Charges, and Assessments to County Treasurer for Collection," B.R.C. 1981.
- (e) To cover the costs of investigative inspections, the city manager will assess owners or operators a \$250.00 fee, per inspection, where the city manager performs an investigative inspection to ascertain compliance with or violations of this chapter.

10-3-17 Penalty.

- (a) The penalty for violation of any provision of this chapter is a fine of at least \$500.00 and not more than \$2,000.00 per violation, or incarceration for not more than ninety days in jail, or both such fine and incarceration. In addition, upon conviction of any person for violation of this chapter, the court may issue a cease and desist order and any other orders reasonably calculated to remedy the violation. Violation of any order of the court issued under this section is a violation of this section and is punishable by a fine of not more than \$4,000.00 per violation, or incarceration for not more than ninety days in jail, or both such fine and incarceration.
- (b) It shall be a condition of any deferred prosecution or deferred or suspended sentence under this chapter that the defendant commit no violations of this chapter for at least one year from the date of such deferred prosecution or deferred or suspended sentence.

1 (c) Notwithstanding paragraph (a) of this section, the following specific sentencing
2 considerations shall apply to fines imposed for violations:

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

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

14 (A) The imposition of a fine that would deprive the defendant of any illegal
15 profit collected because of the occurrence of the violation or violations on
16 the rental housing property;

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

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

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

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

32 (2) A judicial finding of the existence of special aggravating factors shall not mandate
33 that the court impose any particular level of fine but will, rather, provide the
34 sentencing court with discretion to determine a fine based upon all the criteria set
35 forth in this subsection.

36 (3) Special aggravating factors, for the purpose of this subsection, shall require a
37 judicial finding of one or more of the following:

1 (A) The violations at issue were flagrant and intentional on the part of the
2 defendant;

3 (B) The defendant, after learning of the violation, failed to attempt corrective
4 action over a sustained period of time; or

5 (C) A fine equivalent to the maximum fine permitted for fifteen separate
6 violations would be inadequate to disgorge the defendant of illegal profits
7 obtained as a consequence of the violations or would be inadequate to
8 ensure that the violation is neither profitable nor revenue neutral for the
9 offender.

10 **10-3-18 Authority to Issue Rules.**

11 The city manager may adopt reasonable rules to implement ~~the provisions of~~ this chapter.

12 **10-3-19 Owner Occupied Designation.**

13 (a) A rental property may be considered “owner occupied” if the occupant certifies to the
14 city as part of the licensing process that the occupant owns an interest in a corporation,
15 firm, partnership, association, organization or any other group acting as a unit that owns
16 the rental property.

17 (b) The definition for “Family”, as used in this chapter, appears in section 9-2-1,
18 “Definitions,” B.R.C. 1981

19 Section 4. This ordinance shall take effect January 3, 2011.

20 Section 5. This ordinance is necessary to protect the public health, safety, and welfare of
21 the residents of the city, and covers matters of local concern.

22 Section 6. The City Council deems it appropriate that this ordinance be published by title
23 only and orders that copies of this ordinance be made available in the office of the city clerk for
24 public inspection and acquisition.
25
26
27
28

1 INTRODUCTION, READ ON FIRST READING, AND ORDERED PUBLISHED BY
2 TITLE ONLY this 1st day of June 2010.

3
4
5 Attest: Mayor

6
7 City Clerk on behalf of the
8 Director of Finance and Record

9 READ ON SECOND READING, AMENDED, AND ORDERED PUBLISHED BY
10 TITLE ONLY this 7th day of September, 2010.

11
12
13 Mayor
14 Attest:

15
16 City Clerk on behalf of the
17 Director of Finance and Record

18
19 READ ON THIRD READING, PASSED, ADOPTED AND ORDERED PUBLISHED
20 BY TITLE ONLY this 21st day of September, 2010.

21
22
23 Mayor
24 Attest:

25
26 City Clerk on behalf of the
27 Director of Finance and Record
28