

# ***City Council***

## ***Study Session Agenda***

**July 09, 2013**  
**Louisville Public Library, 1<sup>st</sup> Floor Meeting Room**  
**951 Spruce Street**  
**7:00 PM**

- |                  |   |
|------------------|---|
| 7:00 p.m.        | <b>I.</b> Call to Order   |
| 7:00 – 7:15 p.m. | <b>II.</b> Discussion – Board of Adjustment   |
| 7:15 – 7:30 p.m. | <b>III.</b> Discussion – Building Code Board of Appeals   |
| 7:30 – 8:30 p.m. | <b>IV.</b> Discussion – Urban Agriculture – Backyard Chickens   |
| 8:30 – 9:00 p.m. | <b>V.</b> Discussion – Public Notice Expectations for Quasi-judicial Processes and City Sponsored Planning and Construction Initiatives |
| 9:00 – 9:05 p.m. | <b>VI.</b> City Manager’s Report<br>a. Advanced Agenda  |
| 9:05 – 9:10 p.m. | <b>VII.</b> Discussion Items for Study Session on July 23, 2013 and Identification of Future Agenda Items                               |
| 9:10 p.m.        | <b>VIII.</b> Adjourn  |

**SUBJECT: UPDATE/DISCUSSION – BOARD OF ADJUSTMENT (BOA)**

**DATE: JULY 9, 2013**

**PRESENTED BY: GAVIN MCMILLAN, AICP, PLANNING AND BUILDING SAFETY DEPARTMENT**

**INTRODUCTION:**

The Board of Adjustment (BOA) is a six member quasi-judicial board that hears and decides requests for variances from the City’s zoning ordinance. The BOA also hears and decides floodplain development permits and appeals of administrative zoning and floodplain decisions.

**BOARD MEMBERS:**

The current board members are: Chris Fuller, Chair; Leslie Ewy, Vice-chair; Erik Jasiak, James Stuart, Christine Niska, and Carl Borrmann. Jacquelyn Geiger serves as the associate or alternate member. There are not any vacancies on the Board of Adjustment.

**2012 SUMMARY:**

2012 was a relatively light year for the BOA as they heard only three variance requests. The board has already heard seven cases in 2013. Two of the 2012 cases included residential expansions that exceeded the maximum lot coverage permitted, and the third case dealt with structures which did not meet the building separation requirement. All of the cases heard by the Board of Adjustment in 2012 were approved. The table below provides a brief summary of each requested variance.

<b>Address</b>	<b>Request</b>	<b>Chapter of LMC/PUD</b>	<b>Old Town Overlay?</b>	<b>Outcome</b>
633 Jefferson Ave.	Building Separation	17.16.030	No	Approved
832 Owl Drive	Exceed maximum lot coverage	17.12.040	No	Approved
456 W. Sycamore Ct.	Exceed maximum lot coverage	17.12.040	No	Approved

**SUMMARY NARRATIVE:**

A description of each case, including the date heard and final outcome follows:

May 16, 2012

633 Jefferson Ave. - Case #12-012-VA: Approval of a variance from Section 17.16.030 of the Louisville Municipal Code to allow a 7’10” separation between an accessory structure and a principal structure where a 10 foot separation is required.

*Staff Recommendation: Approval*

*BOA Decision: Approved*

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June 20, 2012

832 Owl Drive - Case #12-016-VA: Approval of a variance from Section 17.12.040 of the Louisville Municipal Code (LMC) to allow an addition to an existing home, creating a lot coverage of 26.5% where 20% is allowed.

*Staff Recommendation: Approval*

*BOA Decision: Approved*

December 19, 2012

456 W. Sycamore Ct. – Case #12-016-VAVA: Approval of a Section 17.12.040 of the Louisville Municipal Code (LMC) to allow an addition to an existing home, creating a lot coverage of 25% where 20% is allowed.

*Staff Recommendation: Approval*

*BOA Decision: Approved*

### **2013 WORK GOALS:**

At the beginning of a BOA variance hearing, the Chairman of the Board reads a script which outlines the procedure of the hearing to the applicant and anyone in the audience (see attachment). The script helps to ensure the board follows the same procedure for every application that comes before them. The Board has expressed some dissatisfaction with the amount of time it takes to read through the script, and has requested staff work with the City attorney to develop a shorter version which still ensures due process is maintained.

Aside from modifying the script, the BOA's work plan includes continuing to hear Variance and Floodplain Development requests as they are submitted. The first case before the BOA in 2013 was heard on February 20<sup>th</sup>.

### **ATTACHMENT:**

Board of Adjustment Script

# City of Louisville Board of Adjustment Variance Hearing Script

(These comments are for the Chairman and Board members in conducting the variance hearing in a manner consistent with the City's ordinances, state law, and the Bylaws of the Board. They are consistent with the amendments to the hearing procedures and will be revised to conform to any changes in those procedures.)

## A. Call the public hearing to order:

"For the record, I am \_\_\_\_\_, Chairman of the City of Louisville Board of Adjustment. This is a hearing on the application for a zoning variance filed with the Board by \_\_\_\_\_. The variance requested is <sup>Floodplain Permit</sup> \_\_\_\_\_ for \_\_\_\_\_. The address (or location) of the premises for which the variance is requested is \_\_\_\_\_."

## B. Opening comments of Chairman:

"The purpose of this hearing is to receive evidence and testimony in order to enable the Board to decide whether the variance application should be granted or denied."

"This hearing is open to the public and is being electronically recorded. I ask that each person addressing the Board first identify yourself by name and address and whether you are a representative of any person or organization. All persons who wish to present evidence or testimony should sign the sheet being circulated, indicating whether your testimony will favor or oppose the application."

"I may limit testimony or questioning that is repetitive, cumulative, argumentative, or not pertinent to the issues, and may set a time limit on the length of testimony if I determine it to be necessary because of the number of persons signed up to testify."

“The Board will not observe formal rules of evidence but may consider any matter which I (the Chairman) conclude is reasonably reliable and calculated to aid the Board in reaching an accurate determination of the issue involved. My rulings on questions of admissibility of evidence and exhibits will stand unless objected to by a member of the Board made during the hearing, in which event the question of admissibility will be decided by a majority of the members of the Board present. Exhibits must be marked and identified before offering them to me for admission into the record of the hearing.”

“Board members may question any person addressing the Board at any time. The attorney for the Board is (is not) present at this hearing.”

### **C. Procedure for Hearing:**

“The hearing will be conducted in the following order”:

- 1) “The Board will first receive evidence or testimony from the City Planning Department Staff or other City personnel followed by any questions by the Applicant, Board members, the City Attorney and parties who favor or oppose the application.”
- 2) “Next, the Board will receive any opening statement or remarks by the Applicant, and evidence or testimony from the Applicant and the Applicant’s witnesses.”
- 3) “After the Applicant’s presentation, the Board members, the City Attorney, City Staff, and parties opposed to the application may question the Applicant and any of the Applicant’s witnesses.”
- 4) “The Board will then receive any evidence or testimony from persons supporting the application, followed by any questions by the Applicant, Board members, the City Attorney, City Staff, and parties opposed to the application.”

- 5) "Next the Board will receive any evidence or testimony from persons opposing the application, followed by any questions by the Applicant, Board members, the City Attorney, City Staff, and parties who favor the application."
- 6) "The Applicant will then be allowed an opportunity to respond in rebuttal to or in clarification of any other evidence or testimony presented. The Applicant may be questioned on its rebuttal or clarification. The Applicant and City Staff may then make a closing statement if they so desire."
- 7) "If there are no further matters to be addressed, the hearing will then be closed."
- 8) "Following the conclusion of the public hearing, the Board will discuss the evidence presented here tonight. The Board may then either render its decision this evening or take the matter under advisement for further deliberations."
- 9) "In order to approved a request for a variance the affirmative vote of
  - Five of the six
  - ✓ Four of the five
  - All four
 Board members present will be necessary."

#### D. Matters to be considered by the Board:

"In making its decision on the application, the Board will be acting in a quasi-judicial capacity. The Board in making its decision will consider the facts and evidence presented at the hearing or required or permitted to be established under the Colorado Revised Statutes, and Chapter 17 of the Louisville Municipal Code. The Board's decision must also be based on the legal requirements of State law and City ordinances. The Board may

grant a variance **only** if it finds that **all** of the following requirements, <sup>approve</sup> insofar as applicable, have been satisfied:

*applicable requirements from Section 17.56 of the LMC*

- 1) That there are unique physical circumstances or conditions such as irregularity, narrowness or shallowness of lot, or exceptional topographical or other physical conditions peculiar to the affected property;
- 2) That the unusual circumstances or conditions do not exist throughout the neighborhood or district in which the property is located;
- 3) That because of such physical circumstances or conditions, the property cannot reasonably be developed in conformity with the provisions of Chapter 17 of the Louisville Municipal Code;
- 4) That such unnecessary hardship has not been created by the Applicant;
- 5) That the variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of the adjacent property;
- 6) That the variance, if granted, is the minimum variance that will afford relief and is the least modification possible of the provisions of Chapter 17 of the Louisville Municipal Code which are in question.”

“The Applicant and others testifying to the Board should focus their comments on whether or not these requirements are satisfied.”

**E. Determination of proper notice and application:**

“Before the Applicant’s presentation, it is necessary for the Board to determine for the record whether the application has been properly filed

and filing fees paid, and whether all necessary notice requirements have been satisfied.”

(To the Secretary of the Board): “Is the application complete and have the notice requirements been satisfied with respect to the Applicant?”

“Does anyone here have any evidence to present to the Board that the application is not complete or that notice requirements have not been met?”

“I will need a motion from the Board.”

*[Suggested motions on notice requirements and application:*

1. *Requirements Satisfied.* “Based on the record before us, I move that the Board find that all notice requirements have been satisfied and that the application submitted by the Applicant has been properly filed.”
2. *Requirements Not Satisfied:* “Based on the record before us, I move that the Board find that all requirements have not been satisfied (or that the application submitted by the Applicant has not been properly filed) and that the application not be heard until notice requirements have been satisfied (or the application properly filed).”]

#### **F. Final matters prior to Staff’s and Applicant’s presentations:**

“Does any person have any objection to the hearing procedure I have described, or any objection to proceeding with the hearing tonight or to any other matter? If not, are there any other preliminary matters that need to be taken care of?” “Finally, at this time I will call for disclosure by the Board members of any site visits, any ex parte contact, any conflicts of interest, or other disclosures.”

“(Mr., Mrs., Ms. \_\_\_\_\_ (use the Applicant’s name)), are you ready to proceed? If so, we will proceed as described, beginning with the Staff Report.

**G. Closing remarks of Chairman at the END OF HEARING:**

“Are there any further matters to be raised by any person? Hearing none, I close the hearing.”

**SUBJECT: UPDATE DISCUSSION – BUILDING CODE BOARD OF APPEALS (BCBOA)**

**DATE: JULY 9, 2013**

**PRESENTED BY: KEN SWANSON, CHIEF BUILDING OFFICIAL  
PLANNING AND BUILDING SAFETY DEPARTMENT**

**INTRODUCTION:**

The Building Code Board of Appeals (BCBOA) is a five (5) regular member quasi-judicial board that hears and decides requests for variances from the City's Building Codes. There were no appeals filed last year. There has only been one appeal in the past twelve (12) years. The BCBOA also reviews and recommends modifications / updates to the City Council regarding the City are building codes.

**BOARD MEMBERS:**

The current board members are: Peter Geise, Chair; Matthew Berry Vice Chair; Gary Mancuso, Christopher Tew and Bob Van Pelt. There is currently one open position for an associate member on the BCBOA. This position may be filled at the discretion of City Council.

**2013 WORK GOALS:**

*2012 International Building Code Adoption*

The City of Louisville Building Safety Division is currently enforcing the 2009 International Building Codes (IBC). Every three years the International Code Council (ICC) publishes a new set of building codes. The 2012 IBC is now eligible for adoption. This code is currently under discussion and review by the Board of Appeals. Each IBC update is a culmination of the three (3) previous years submitted code change requests from many sectors of the construction and enforcement industry.

The BCBOA has been reviewing the changes at their scheduled meetings. The tentative next steps in this effort include (1) preparing for and then having public meetings to invite stakeholders comments; (2) summarizing and discussing those comments with City Council in a study session; (3) based on Council comments, developing during the September 19<sup>th</sup> BCBOA meeting (and if necessary subsequent meetings) recommendations for City Council consideration; and (4) presenting those recommendations to City Council for consideration sometime in the late fall or early winter.

The process involves the comparison of the current 2009 International Building Codes and the 2012 International Building Codes. Most of the updates between 2009 and 2012 do not present significant changes to construction, or enforcement procedures.

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(BCBOA)**

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However, there are some significant issues in the 2012 IBC of which the BCBOA and City Council will need to decide to adopt, or not. These include:

- Single Family Residential and Townhouse Fire Sprinklers;
- Above Energy codes mandated with the adoption of the 2012.

*Residential Fire Sprinklers* – The Louisville City Council, based on a recommendation from the BCBOA, adopted the 2009 IBC without sprinkler requirements for single family homes and townhouses. Council did adopt more restrictive sprinkler requirement for multi-family residential and commercial buildings. Once again, the BCBOA and City Council will need to decide whether or not to amend the 2012 IBC and eliminate the sprinkler requirement for single family homes and townhouses as was done in the 2009 adoption.

*Energy Code Conservation* - When the City of Louisville adopted 2009 IBC, there was a 15% increase in energy efficiency over 2003. To adopt the 2012 IBC, staff estimates another 12 to 15% increase in efficiency over 2009.

Different in 2012 from 2009 are the mandatory performance standards and tests (such as blower door test). Previously these tests were optional. As a result, there will be an increase in costs for both the public (monitoring and inspections) and private sectors (testing).

*The International Green Construction Code* – The Green Construction Code is a new code from the ICC available for adoption this year. The BCBOA has two meetings scheduled this summer and fall to discuss the opportunities and challenges associated with adopting the new Green Construction Code. Fort Collins was one of the first to initiate this code and conducted a 5 year study by a third party consultant.

To guide Council's discussion with the BCBOA, the following advantages and disadvantages for the adoption of the 2012 Building Codes are presented below.

Advantages of adopting the 2012 IBC:

- Positive impact on ISO rating (homeowner's insurance rating);
- Continue to stay current with code cycle;
- Staying current with national trends.

Disadvantages:

- Financial impact; cost of books and training for staff and board \$10,000-\$15,000;
- Possible increase cost of construction;
- Increase municipal monitoring and inspection costs

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**Additional Items**

The Building Code Board of Appeals is also working on advancing recommendations concerning the following:

*Mobile Home Ordinance* – The Mobile Home Ordinance is in the process of being updated to reflect current standards. The BCBOA will then have the opportunity to review and provide input into the ordinance for a recommendation of adoption to City Council later this year.

*Public Outreach* – Staff has recognized the need for some public education regarding the rules and regulations for building in Louisville. Suggested topics can include but will not be limited to: basement finishes, decks, carports, and general construction practices for small businesses.

**ATTACHMENT(S):**

None

**SUBJECT:                   STUDY SESSION: URBAN AGRICULTURE – BACKYARD  
                                  CHICKENS**

**DATE:                       JULY 9, 2013**

**PRESENTED BY: TROY RUSS, AICP - PLANNING AND BUILDING SAFETY  
                          DEPARTMENT, IN ASSOCIATION WITH BRUCE GOODMAN,  
                          POLICE CHIEF – POLICE DEPARTMENT**

**SUMMARY:**

The Louisville Planning Commission requested the Planning Division prioritize the development of a White Paper on best practices in urban policy related to all aspects of urban agriculture. The Louisville City Council subsequently requested the Planning Division advance the backyard chicken portion of the White Paper ahead of the overall urban agriculture research.

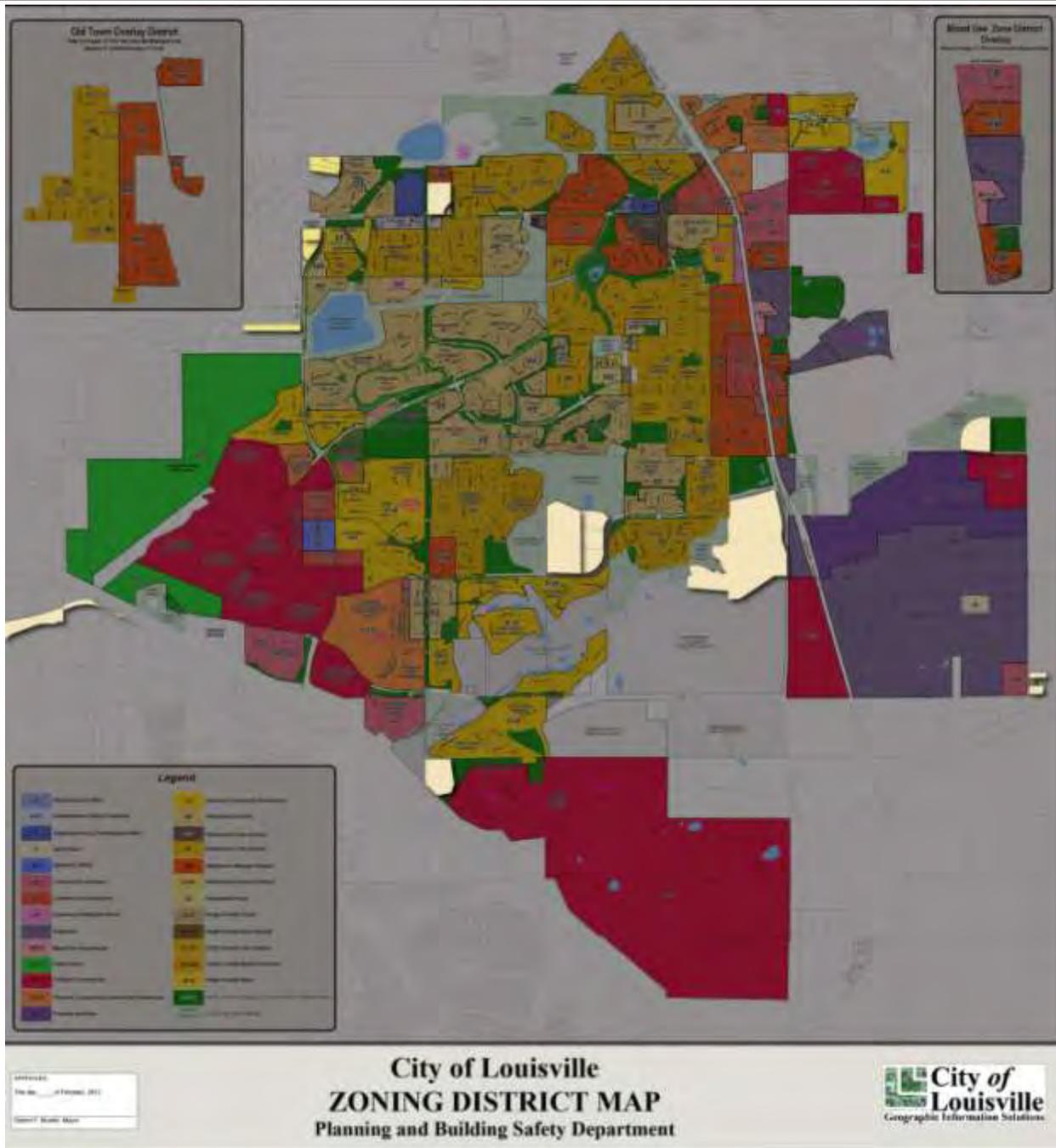
Planning staff coordinated with the Louisville Sustainability Advisory Board (LSAB) and the City's Police Department to develop a draft of the backyard chicken portion of the White Paper (attached). The purpose of this City Council Study Session is to present LSAB's research and the City's (Planning and Police) observations - identifying the opportunities and challenges associated with allowing backyard chickens in Louisville and facilitate a policy discussion regarding backyard chickens.

**HISTORY:**

In the spring of 2009, the Planning Division worked in coordination with the Police Department to develop background information on the issue on backyard chickens and bee keeping in light of several requests received by advocates. Based on community discussions at that time, the Louisville City Council subsequently directed staff not to advance a backyard chicken ordinance.

**BACKGROUND**

Section 6.16.020(A), of the Louisville Municipal code prohibits chicken keeping within all but two zoning districts within the City. Currently, chicken keeping is allowed on properties in the Agricultural (A) and Restricted Rural Residential (R-RR) zone districts.



A and R-RR Zone Districts

However, according to Section 6.16.020(B), a person may keep up to “three ducks, geese or turkeys, or any combination thereof, within the city in areas zoned for such use . . .”. Ducks, Geese or Turkeys are permitted in the A zone district as a permitted principal use, but a Special Review Use is required in residential and industrial zoning

districts of the City (R-RR, SF-R, SF-E, RR, RE, RL, SF-LD, SF-MD, SF-HD, RM, RH, and I zone districts).

The popularity of backyard chickens has grown significantly in Boulder County and throughout the Front Range since 2009. Reasons for this increased interest include:

- the increasing desire for locally raised food products,
- improved food security,
- organic food interests, and
- general awareness of the limited nuisances.

Denver, Longmont, Lafayette, and Lakewood, among others, have permitted backyard chickens since 2009.

The discussion during this study session will follow the outline of the attached White Paper.

Community Benefits

Potential Community Impacts

Best Practices

- Minimum Requirements for Raising Chickens
- Comparison of Local Ordinances
- Nuisance Management

### **FISCAL AND ECONOMIC IMPACTS**

Fiscal impact on City Departments with the adoption of chicken keeping in the municipal code will be dependent on the extent of regulation, licensing and enforcement required. In review of more recently adopted codes, the fiscal impact would be reduced as the use is allowed subject to limitations of lot size, setbacks, and fencing enclosures. Conversely, if a public hearing or licensing is required prior to conducting the activity the fiscal impact could be higher.

### **RECOMMENDATION**

Discuss policy issues related to the potential benefits and concerns related to backyard chickens and set a discussion and direction agenda item for the August 6, 2013 Council meeting.

### **ATTACHMENTS:**

1. WHITE PAPER: Urban Agriculture - Backyard Chickens; prepared by the Louisville Sustainability Advisory Board (LSAB) in association with the Louisville Planning Division

**CITY OF LOUISVILLE**

**WHITE PAPER**

**Urban Agriculture - Backyard Chickens**

**July 9, 2013**

Developed by:

**Louisville Sustainability Advisory Board**

In association with

**City of Louisville Planning and Building Safety Department**

**CITY OF LOUISVILLE  
WHITE PAPER  
URBAN AGRICULTURE - BACKYARD CHICKENS**

**1.0 INTRODUCTION**

Urban agriculture is the practice of cultivating, processing, and distributing food in or around a village, town, or city.<sup>1</sup> Urban agriculture involves all aspects of food production and includes animal husbandry, aquaculture, agroforestry, and horticulture.

The Louisville Planning Commission requested the Planning Division prioritize the development of a White Paper on best practices in urban policy related to all aspects of urban agriculture. The Louisville City Council subsequently requested the Planning Division work with the Louisville Sustainability Advisory Board (LSAB) to advance the backyard chicken portion of the White Paper ahead of the overall urban agriculture research.

Planning staff coordinated with the Louisville Sustainability Advisory Board (LSAB) to develop a draft of the backyard chicken portion of the White Paper.

This paper provides background information on keeping backyard chickens in urban areas. It also provides a summary of the measures other Colorado municipalities have taken regarding backyard chickens. This document contains research and best practices information to inform the Louisville City Council when considering an ordinance to allow backyard chickens.

**2.0 BENEFITS AND CHALLENGES**

Many chicken owners state the same reason for starting up their flocks: eggs. Their main reason is to create a healthy and sustainable food source through egg production. Secondly, backyard chickens are also raised for meat production and animal sales. This section describes the benefits and challenges associated with backyard chickens in urban settings.

**2.1 Benefits**

The benefits of raising chicken in backyards include:

- Proponents claim backyard chicken eggs are fresher and taste better. Eggs purchased in the grocery store can be days—even weeks—old. As eggs age, air seeps into the porous eggshell, degrading nutrition and taste.
- Proponents claim eggs from well-tended backyard chickens can be healthier. Based on diet backyard chickens can contain 30% less cholesterol, 25% less saturated fat, 60%

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<sup>1</sup> Bailkey, M., and J. Nasr. 2000. From Brownfields to Greenfields: Producing Food in North American Cities. Community Food Security News. Fall 1999/Winter 2000:6

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more vitamin A, two times more omega3 fatty acids, three times more vitamin E, and seven times more beta-carotene.<sup>2</sup>

- Urban chickens provide an opportunity for organic chemical free food.
- Raising food locally decreases the transportation requirements of one of our staple foods. Local food production results in fewer trips to the store and fewer deliveries from agribusiness. That means less fuel consumed less air pollution, and less traffic congestion.
- Backyard chickens provide opportunities for hands on education about responsibility and the origin and production of food.

### 2.3 Potential Issues

Commonly encountered problems, or common objections to urban chickens, include those discussed below. **All issues assume roosters are not allowed within the urban context.**

- **Community Nuisances**
  - **Odor** - Odor is one of the main objections to chickens. Anyone who has been near a commercial chicken operation has undoubtedly experienced some unpleasant scents.
  - **Noise** - Chickens do a fair amount of clucking and plenty of cackling usually accompanies egg laying. Chickens are not as noisy as roosters.
- **Additional Code Enforcement Resource Requirements** – The allowance of backyard chickens introduces the reality of additional code enforcement requirements for any municipality. Regardless of the quality of the ordinance, a nuisance is subjective interpretation. Code enforcement offices will experience an increase in nuisance calls.
- **Potential Health Risk** - Fowl related health problems are generally associated with large commercial flocks. Chickens, ducks, and other poultry may carry *Salmonella*, which naturally lives in the intestines of poultry and many other animals. It can be shed in their droppings or feces. While it usually doesn't make the birds sick, *Salmonella* can cause serious illness chicken it is passed to people.<sup>3</sup>

While anyone can become ill from exposure to these microorganisms, the risk of infection is especially high for children, pregnant women, the elderly, and persons with weakened immune systems.<sup>4</sup>

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<sup>2</sup> Home Raised Eggs Offer Superior Nutrition, Handcrafted Coops, <http://handcraftedcoops.com/home-raised-eggs-offer-superior-nutrition>

<sup>3</sup> Keeping Backyard Poultry, Centers for Disease Control, <http://www.cdc.gov/Features/SalmonellaPoultry/>

<sup>4</sup> Home-Produced Chicken Eggs, M. Bunning and J. Avers, April 19, 2013

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- **Coops Can Be Eyesores that Potentially Reduce Property Values** - Coops allowed in front yards, or those constructed above fence lines, may create objectionable sight lines or be unattractive structures.
- **Rodents and Possible Predators** - In Louisville rodents, raccoons, coyotes, foxes, and domesticated dogs are likely predators. Some predators are primarily interested in eggs or young chickens. The prospect of eggs or a chicken dinner draws them all. If successful, they will return repeatedly. Coyotes are attracted to sick, dying, and deceased animals, including chickens.

### **3.0 BEST PRACTISES**

#### **3.1 Minimum Requirements for Raising Chickens**

The basic requirements for raising healthy urban Chickens include:

- Three to four birds for a minimum flock - chickens are sociable.
- 2-3sf of coop floor per bird. (The more space, however, the healthier chickens are; overcrowding contributes to disease and feather picking.)<sup>5</sup>
- Approximately 4-5sf per chicken in an outside run or enclosed backyard space; a place to “spread their wings”.<sup>6</sup>
- Securely fenced space to keep chickens in and predators out. Chickens are housed within a secured coop between dawn and dusk to minimize predator issues.
- Feed is secured in predator proof containers. This will ensure chickens have clean and healthy food source. The attached report illustrates the best practices in raising urban chickens

#### **3.2 Comparison of Local Ordinances**

Several cities in Boulder County and the Denver metro area allow backyard chickens. Table 1, below, provides a representative summary of each municipality’s requirements.

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<sup>5</sup> Backyard chickens, <http://www.backyardchickens.com/>

<sup>6</sup> Backyard chickens, <http://www.backyardchickens.com/>

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**Table 1: Local Ordinance Comparison**

City	Number	Number	Roosters	Distance/Space Requirements	Permit/Fee	Other Requirements
<b>Boulder</b>	Permitted accessory in residential Zone Districts	50/acre or suburban lot	No	NA	No	<ul style="list-style-type: none"> <li>No Roosters</li> <li>Feed must be stored in rodent proof containers.</li> </ul>
<b>Denver (2011)</b>	Permitted in all residential Zone Districts	8 (ducks and/or chickens total)	No	<ul style="list-style-type: none"> <li>&lt;15' to 1) a structure on an abutting dwelling and 2) a dwelling not the residence of the keeper and located in a primary structure on same lot.</li> </ul>	Yes/\$25 (annual renewal)	<ul style="list-style-type: none"> <li>No Roosters</li> <li>16 ft<sup>2</sup> space/bird</li> <li>Located on the rear 50% of lots</li> </ul>
<b>Ft. Collins (2008)</b>	Permitted in all residential Zone Districts  Permitted in residential portions of non-residential zone districts	6	No	<ul style="list-style-type: none"> <li>15' from property line</li> <li>4 ft.<sup>2</sup> per chicken</li> </ul>		<ul style="list-style-type: none"> <li>No Roosters</li> <li>No slaughtering</li> </ul>
<b>Lakewood (2013)</b>	Accessory Use in R-1 Districts  Special Use Permit in R-2 District	1 to 4	No	<ul style="list-style-type: none"> <li>Based on zoning; 15' from property line typically</li> </ul>	Yes/\$15	<ul style="list-style-type: none"> <li>No Roosters</li> <li>Coops 6 ft.<sup>2</sup>/bird, ≥ 32 ft.<sup>2</sup>, 10' height</li> <li>In coop or fenced at all times (min. 4" tall fence)</li> </ul>
<b>Longmont (2009, 2011)</b>	Permitted in all residential Zone Districts  Permitted in residential portions of non-residential zone districts	4	No	<ul style="list-style-type: none"> <li>If existing coops &lt;6' from property line, written consent from adjacent property owners required</li> <li>4 ft<sup>2</sup> space/chicken required</li> </ul>	Yes/\$30 (one time)	<ul style="list-style-type: none"> <li>No Roosters</li> <li>Restricted to back yards</li> <li>No slaughtering</li> <li>If free range consent from all abutting owners required</li> </ul>
<b>Lafayette (2013)</b>	Accessory to residential & school uses  Permitted in all residential Zone Districts  Permitted in residential and school uses in the T-1; B-1; C-1 P; and DR Zone Districts	5	No	<ul style="list-style-type: none"> <li>Located in the rear of the property</li> <li>5' setback to side and rear property line</li> <li>Chickens not allowed in front yard</li> <li>Coops &gt;6' tall require building permit (no more than 7')</li> <li>Max. Coop size is 100 sf.</li> <li>Min. of 4sf per in both the coop and the run.</li> </ul>	Yes/\$30	<ul style="list-style-type: none"> <li>No Roosters</li> <li>Shall be predator resistant with a solid covered roof.</li> <li>Access to run in daylight only</li> <li>Enclosed within a chicken coop between dusk and dawn.</li> <li>No chickens, coop or Run shall be located in common areas of a multi-unit, multi-use, or multi-family property.</li> <li>Feed must be stored in rodent proof containers.</li> <li>Slaughtering not allowed on site</li> <li>No other fowl allowed</li> </ul>

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### **3.3 Nuisance Management**

Colorado cities where backyard chickens have been allowed for up to 5 years report minimal problems with them. Overall, the number of people who keep chickens in cities is fairly small. After an initial surge of requests, the number of applicants drops off significantly.

#### ***Boulder***

The City of Boulder has no published information pertaining to their backyard chicken activity.

#### ***Denver***

The City and County of Denver Animal Control Department issues and administers permits. In 2012, 254 permits were issued. 71 were issues in 2013. Denver reported “very few problems” to date.” It is currently considered a “non-issue”. Fees have covered administrative costs and there has been no impact to the Animal care and Control budget.<sup>7</sup>

#### ***Fort Collins***

Since 2008, Ft. Collins has issued 153 chicken licenses. Out of the 56,649 total calls that Ft. Collins’ Animal Control has received, 76 calls were related to chickens; one citation was issued. Animal Control chicken related data as published by Ft. Collins is:

##### *Type of Calls*

- Chickens at large: 29
- Roosters/disturbance: 24
- Fence too close to neighbors: 4
- Number of chickens: 13
- Other 6

##### *Results*

- 21 calls resolved by educating the owner on the requirements, e.g., need to remove the roosters;
- 1 warning issued for number of chickens;
- 2 warnings issued for disturbance; and,
- 1 case is still open for number of chickens and location and license required.

#### **Lakewood**

The Planning Department at Lakewood indicated that since the ordinance was passed there have been no complaints and no citations issued.<sup>8</sup>

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<sup>7</sup> Sgt. A. McSpadden, City of Denver Animal Care and Control Department, phone conversation June 5<sup>th</sup>, 2013

<sup>8</sup> S. Wilson, Panning Department, City of Lakewood, phone conversation, June 6<sup>th</sup>, 2013

[Type text]

### **Longmont**

Longmont has issued approximately 170 permits for backyard chickens since 2009. City staff<sup>9</sup> indicated that Animal Control receives approximately one to two complaints a year . . . generally dealing with noise created by roosters kept in violation of the ordinance.

Odor, predators, rodents, and objections from neighbors have not been issues in Longmont. According to the City of Longmont, the effect on the workload of code-enforcement and animal-control officers has been insignificant. None of the ordinances reviewed applied to HOA managed properties. All municipalities require adequate housing and proper construction of coops that offer protection from predators. There was no increase in predator activity reported by any of the municipalities studied.

All cities reviewed require a permit/application. Average cost is \$27.00. Some permits must be renewed annually. All cities studied offered on-line educational materials and links to helpful resources.

### **Nuisance Management Conclusions:**

Based on research, there are specific actions that can assist in managing nuisance and code enforcement concerns associated with backyard chickens, these include:

- Prohibit backyard chickens.

*If City Council wishes to move forward with an ordinance allowing backyard chickens, the following actions will assist in managing nuisances:*

- Prohibit roosters;
- No free range chickens;
- A limit of the number of fowl to six maximum; three of any combination geese, turkeys, ducks plus the addition of a maximum of three hens Or, four hens maximum;
- Create a license/permit requirement to assist in managing/educating applicants (note this effort may be unnecessary and could create more work for City staff and a potentially onerous process for applicants;
- Prohibit outdoor slaughtering of birds;
- Establish coop and pen placement and design requirements to best assure the health of the birds and compatibility with adjacent properties;
  - A restriction of coops and runs to backyards.
  - A maximum 6' height for coops.
  - A predator proof construction requirement.
  - Airtight and vermin-proof feed container requirements;
  - Identification of a minimum distance from property lines for coops/runs. Use standard accessory structure setback regulations.
  - Prohibit conditions that create an attractive nuisance for vermin;
- Require odors be contained within the owner's property boundaries to enable Code Enforcement to deal with odoriferous complaints;
- Require Owners are responsible for the immediate proper disposal of dead birds;
- Allow code officers to inspect facilities when responding to complaints.
- Allow the City to require discontinuance of a coop operation upon chicken related code violations.
- Development of educational materials (best practices, how to care for chickens, basic requirements for coop design, available resources, etc.) for prospective owners.

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<sup>9</sup> B. Ortiz, Longmont Planning & Development Services Division, phone conversation, April 17, 2013

**SUBJECT: PUBLIC NOTICE EXPECTATIONS FOR QUASI-JUDICIAL PROCESSES AND CITY SPONSORED PLANNING AND CONSTRUCTION INITIATIVES**

**DATE: JULY 9, 2012**

**PRESENTED BY: TROY RUSS, PLANNING AND BUILDING SAFETY DEPARTMENT**

**SUMMARY:**

The City has inconsistent regulations and practices for posting notice of development proposals and City sponsored planning and construction projects. These inconsistencies may make the notices confusing and/or ineffective. This was evident during the initial Safeway Redevelopment proceedings, when many questions arose regarding the public notice, and during the City’s recent Comprehensive Plan Update, when questions emerged about what public notice and outreach the City might use to encourage participation in the Small Area and Neighborhood Planning activities. Table 1 summarizes the City’s public notice requirements and current practices.

**Quasi-Judicial Requirements**

The City Charter and the Louisville Municipal Code (LMC) contain specific rules the City and applicants must follow regarding public notice for quasi-judicial procedures. It is important to note these public notice requirements are not minimum standards the City can ask an applicant to exceed if that seems desirable. Instead, the LMC outlines specific requirements an applicant and City staff must follow to ensure that every development proposal is processed consistently.

However, during staff’s review of the notice requirements for various quasi-judicial actions, it became apparent the LMC and related processes have been pieced together over time in a way that created inconsistencies in the required notice posting (place and duration) and mailing (distance from affected property) for rezoning, Planned Unit Developments, Special Review Uses, and Administrative Special Review Uses. These inconsistencies are highlighted in **red** in Table 1.

**.TABLE 1: PUBLIC NOTIFICATION REQUIREMENTS & PRACTICES**

Land Use Application	Requirements		Contact		Posting			Publications
	City Charter	LMC	Mailing	Email	City (Website 72 in advance)	Public Facility (1)	Property	Daily Camera
Annexation	Sec. 5-18(a)	Sec. 16.04.070 & 16.32.040(c)	All Affected Properties + 500’	N	Y	Y	N (included in zoning)	4 (once a week for 4 weeks). 1 <sup>st</sup> , 30 days prior to hearing
Plat	Sec. 5-18(a)	Sec. 16.04.070 & 16.12.030(c)	All Affected Properties +	N	Y	N	<b>N</b>	15 days prior to hearing

**SUBJECT: DEVELOPMENT REVIEW PUBLIC OUTREACH****DATE: JULY 9, 2013****PAGE 2 OF 3**

		(g.1)	500'					
Minor Plat	Sec. 5-18(a)	Sec. 16.04.070 & 16.012.110	All Affected Properties + 300'	N	Y	N	N	15 days prior to hearing
Zoning / Rezoning	Sec. 5-18(a)	Sec. 17.04.070, 17.44.020 & 17.44.030	All Affected Properties + 500'	N	Y	Y	15 days prior to meeting	15 days prior to hearing
Planned Unit Development	Sec. 5-18(a)	Sec. 17.04.070 & 17.28.170	All Affected Properties + 500'	N	Y	Y	N	15 days prior to hearing
Special Review Use	Sec. 5-18(a)	Sec. 17.04.070, 17.40.060 & 17.40.070	All Affected Properties + 500'	N	Y	Y	N	15 days prior to hearing
Administrative Special Review Use	Sec. 5-18(a)	Sec. 17.04.070, 17.40.105	All Affected Properties + 500'	N	Y	Y	21 days prior to decision	N
Variance / Floodplain Development Permit	Sec. 5-18(a)	Sec. 17.04.070 & 17.48.110	All Affected Properties + 500'	N	Y	Y	10 days prior to hearing	10 days prior to hearing
Historic Landmark / Demolition of an historic structure	Sec. 5-18(a)	Sec. 15.36.030 (B)(C)	All Affected Properties + 500'	N	Y	Y	15 days prior to hearing	15 days prior to hearing
HPF Grant Application	Sec. 5-18(a)		N	N	Y	Y	N	N
Neighborhood / Small Area Plan	(2)	(2)	All Affected Properties +500'(3)	Y (4)	(2)	Y	N	N
Corridor Study	(2)	(2)	All Affected Properties +300'(3)	Y (4)	(2)	Y	N	N
Construction Project	(2)	(2)	All Affected Properties (5)	N	(2)	N	N	N

**.Footnotes**

- (1) Public Facilities are: Louisville City Hall, Public Library, Police & Municipal Court Building, and the Recreation Center (City Council Resolution),
- (2) Required if City Council or a City Board or Commission hold a public meeting (City Charter Sec. 5-18(a))
- (3) This is not required, but is a staff practice for all public meetings.
- (4) All participants in public meetings and individuals that requested information leading up and through the life of the project.
- (5) Staff provides project fliers detailing the scope of construction for all properties impacted by the construction.

**Outreach and Notices Planning Activities and City Construction Projects**

The City Charter outlines public notice requirements for the public meetings of the City Council and appointed public boards or commissions. However, neither the Charter, nor the LMC, prescribes notice requirements for general public involvement meetings. Currently, the Planning Division posts all project information on the City's website and at the Library, the Recreation Center, City Hall and the Police and Municipal Court Building. The Planning Division's outreach efforts vary based the scope of the project.

For the recently completed Highway 42 Gateway Project, staff developed a project website and, for each of the project's four public meetings, mailed information to all properties within 300 feet of the project. Staff also developed an interactive project website for the 2013 Comprehensive Plan. Because of the scale of the project, staff only sent one direct mail project update City-wide through the City's Community Newsletter. Otherwise, staff depended on the City and project (EnvisionLouisville) websites. For each of the Comprehensive Plan's Public Meetings, staff also emailed notices to all participants who signed-in at any public meeting.

**Discussion points moving forward**

Staff wants to discuss with City Council the following topics:

- 1) Appropriate distance of direct mailing based on the project scope
- 2) Requirements and procedures for physical posting (location on site and size of posting, sign material, responsibility for posting, duration of posting, etc.)
- 3) City's website
- 4) Project websites; and the
- 5) Role of social media

**Other Jurisdictions:**

Staff surveyed Boulder, Broomfield, Erie, Fort Collins, Lafayette, Longmont, Loveland and Superior. The results of this survey are attached.

**FISCAL IMPACT:**

The fiscal impact of changing public notice requirements and public outreach could vary. The cost of notices and posting for quasi-judicial processes is paid by applicants, so changing these requirements would not likely increase the City's costs. However, changing the City's approach to public outreach for City sponsored events could increase the City's costs. For reference, the recently distributed post card (mailed in bulk) announcing the Urban Land Institute's public meeting for the McCaslin Corridor cost the City a total of \$2,650 (\$850 for design and printing, plus \$1,800 for postage).

**RECOMMENDATION:**

Discuss policy and procedure issues related to required public outreach efforts and set as a discussion and direction item for the August 8, 2013 Planning Commission.

**ATTACHMENTS**

- 1) Municipal Survey – "Draft Results"

	<i>Publish in newspaper</i>	<i>Mail to surrounding property owners</i>	<i>Post at City hall and other locations</i>	<i>Post Subject Property</i>					
<b>Plat (preliminary &amp; final)</b>									
Boulder									
Broomfield	X	X	X	X					
Erie	X	X	X	X	final - administrative				
Fort Collins	X	X	X	X					
Lafayette	X	X	X	X					
Longmont	X	X	X	X					
Loveland	X	X	X	X					
Superior									
<b>PUD (preliminary &amp; final)</b>									
Boulder									
Broomfield	X	X	X	X					
Erie	X	X	X	X	No Preliminary				
Fort Collins	X	X	X	X					
Lafayette	X	X	X	X					
Longmont	X	X	X	X					
Loveland	X	X	X	X					
Superior									
<b>Use by Special Review, public hearing required</b>									
Boulder									
Broomfield	X	X	X	X					
Erie	X	X	X	X					
Fort Collins	X	X	X	X					
Lafayette	X	X	X	X					
Longmont	NA	NA	NA	NA	Not Applicable				
Loveland	X	X	X	X					
Superior									
<b>Use by Special Review, administrative approval</b>									
Boulder									
Broomfield	X	X	X	X					
Erie	NA	NA	NA	NA	Not Applicable				
Fort Collins	X	X	X	X					
Lafayette		X							

	Longmont	NA	NA	NA	NA	Not Applicable				
	Loveland	N	X	N	N					
	Superior									
<b>Zoning / Rezoning</b>										
	Boulder									
	Broomfield	X	X	X	X					
	Erie	X	X	X	X					
	Fort Collins	X	X	X	X					
	Lafayette	X	X	X	X					
	Longmont	X	X	X	X					
	Loveland	X	X	X	X					
	Superior									
<b>CMRS (cell tower, communication)</b>										
	Boulder									
	Broomfield	X	X	X	X					
	Erie	X	X	X	X					
	Fort Collins	X	X	X	X					
	Lafayette	X	X	X	X	Public Hearing.				
	Longmont		X		X					
	Loveland	*	*	*	*	* See returned document				
	Superior									
<b>Easement / ROW Vacation</b>										
	Boulder									
	Broomfield	X	X	X	X					
	Erie					None				
	Fort Collins	X	X	X	X					
	Lafayette	X	X	X	X	Access Easement / ROW				
	Longmont	X								
	Loveland	X	X	X	X					
	Superior									
<b>Floodplain Development Permit</b>										
	Boulder									
	Broomfield	X	X	X	X					
	Erie					None				
	Fort Collins	X	X	X	X					
	Lafayette	X	X	X	X					
	Longmont	NA	NA	NA	NA	Not Applicable				
	Loveland	*	*	*	*	See returned document				
	Superior									
<b>Historic Preservation Demo</b>										
	Boulder									
	Broomfield	X	X	X	X					
	Erie	NA	NA	NA	NA	Not Applicable				
	Fort Collins	X	X	X	X					

Lafayette	X	X	X	X	If called up				
Longmont									
Loveland	X	*	X	X	* See returned document				
Superior									
<b>Historic Preservation Landmark</b>									
Boulder									
Broomfield	X	X	X	X					
Erie	NA	NA	NA	NA	Not Applicable				
Fort Collins	X	X	X	X					
Lafayette	X	X	X	X					
Longmont									
Loveland	X	*	X	X	* See returned document				
Superior									
<b>Are all project / properties posted?</b>									
	Yes	No							
Boulder									
Broomfield	X				Size of property determines how many posters.				
Erie		X							
Fort Collins	X								
Lafayette		X			PUD				
Longmont	X				most developments				
Loveland	X								
Superior									
<b>Pre-Made poster</b>									
	Yes	No							
Boulder									
Broomfield	X								
Erie	X								
Fort Collins	X								
Lafayette	X								
Longmont		X							
Loveland		X							
Superior									
<b>Responsible Party to post</b>									
	applicant	staff	other						
Boulder									
Broomfield									
Erie	X								
Fort Collins		X							
Lafayette		X							
Longmont	X								

	Loveland	X	X			depends on type of application				
	Superior									
<b>What is poster made of?</b>										
	Boulder									
	Broomfield	Corrugated vinyl material, "corex:"								
	Erie	Corragated Plastic								
	Fort Collins	Metal								
	Lafayette	Corrugated plastic signs								
	Longmont	Weather proof signs								
	Loveland	Paper								
	Superior									
<b>Frame (statkes</b>										
		Yes	No							
	Boulder									
	Broomfield		X							
	Erie	X								
	Fort Collins	X				Metal stakes are separate				
	Lafayette		X			metal stakes are separate				
	Longmont		X							
	Loveland		X							
	Superior									
<b>Size</b>										
	Boulder									
	Broomfield	24" X 36"								
	Erie	24" X 36"								
	Fort Collins	36" X 48"								
	Lafayette	18" X 24"								
	Longmont	As required by the City.								
	Loveland	notice shall be readily visible from each public street or highway								
	Superior									
<b>Printed Text</b>										
	Boulder									
	Broomfield	Text sample sent								
	Erie									
	Fort Collins	generic								
	Lafayette									
	Longmont									
	Loveland	Varies with project type								
	Superior									
<b>Sign Maker</b>										
	Boulder									
	Broomfield	RMD Signs								
	Erie	Rabbit Hill Graphics								
	Fort Collins	City of Fort Collins Street Department								

Lafayette	Create productions							
Longmont	Applicant responsible to have sign made.							
Loveland	Staff provides wording. Applicant responsible to have sign made at a sign company							
Superior								
<b>Cost of Sign</b>								
Boulder								
Broomfield	\$10 each							
Erie	200 signs w/stands = \$1,488. OR \$7.44 each							
Fort Collins	\$175.00 / sign including the frame							
Lafayette	\$8.50 / sign							
Longmont	Paid by the applicant to the sign company							
Loveland	Paid by the applicant based on what the company charges them							
Superior								
<b>Charge applicant for Sign</b>								
	Yes	No						
Boulder								
Broomfield								
Erie		X						
Fort Collins	x				\$50.00 flat fee			
Lafayette	X				Throught the application fee			
Longmont		X						
Loveland	NA	NA			not applicable			
Superior								
<b>Postal Mailing notification</b>								
	Yes	No						
Boulder								
Broomfield								
Erie		X			Sent code requirements			
Fort Collins	X				Initial			
Lafayette		X			Vacation of non-public access/ROW easements. Administrative Cell Tower. SP/Arch.			
Longmont								
Loveland	X							
Superior								
<b>Distance of mailing notice</b>								
Boulder								
Broomfield								
Erie	300 feet							
Fort Collins	800' to 1,000'				Depends on use and density			
Lafayette	750 feet				10 days prior to meeting			
Longmont	300, 750, 1000 or greater.				May include entire subdivision.			
Loveland	150' to 1000'				based on type of application. Variance smaller; annexation largest.			
Superior								
<b>Comments - Boulder</b>								

<b>Comments - Broomfield</b>									
<b>Comments - Erie</b>									
Sent Chapter 7: Review and Approval Procedures									
15-day public notice mailing									
<b>Comments - Fort Collins</b>									
No postal mailings to Minor Amendments, Basic development review.									
Attached copy of Municipal Code - detailing distance of public notice.									
One standard sign for all applications									
<b>Comments - Lafayette</b>									
Municipal Code on line									
<b>Comments - Longmont</b>									
Formally registered neighborhood groups are noticed.									
Certificate of Property Posting.									
<b>Comments - Loveland</b>									
See Comment on returned form regarding notification distance.									
<b>Comments - Superior</b>									