

BOULDER TOWN, UTAH

BOULDER TOWN SUBDIVISION ORDINANCE (AS AMENDED)

**Amended by Ordinance No. 58 on May 8, 2008
Ordinance originally Adopted by Ordinance No. 49
Amended by Ordinance No. 49A**

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**TOWN OF BOULDER
GARFIELD COUNTY, UTAH
SUBDIVISION ORDINANCE**

SECTION 100. GENERAL PROVISIONS.

Section 100-1. Short Title.

This Ordinance shall be known and may be cited as the Boulder Town Subdivision Ordinance and may be identified within this document as “the Ordinance,” “this Ordinance,” “Subdivision Ordinance,” or “Land Use Ordinance.” This Ordinance shall be considered and may be identified as a Boulder Town Land Use Ordinance, as defined by the Act.

Section 100-2. Purpose.

This Ordinance is established to promote the purposes of Title 10 Chapter 9a, Utah Code Annotated, 1953, as amended (hereinafter the “Act”) and to provide for the orderly division of lands within the corporate boundaries of Boulder Town, to avoid incompatibilities in land use, and to secure the provision and long-term maintenance of necessary infrastructure and services in an efficient and economical manner for existing and future residents.

Section 100-3. Authority.

The Town Council of Boulder Town, Utah (hereinafter the “Council”) adopts this Ordinance pursuant to the Act and all other authorities and provisions of Utah and Federal statutory law, as applicable. This Ordinance constitutes a part of the Boulder Town Land Use Ordinance, as authorized and identified by the Act. Upon its adoption by the Council this Ordinance shall amend Ordinance No. 49, adopted March 5, 2003, such Ordinance repealing #41, adopted September 11, 1998.

Section 100-4. Applicability.

Upon its adoption by the Town Council, and effective July 1, 2008, this Ordinance shall govern and apply to the subdivision of all lands lying within the municipal boundaries of Boulder Town, Garfield County, Utah (hereinafter the “Town.”).

Section 100-5. Subdivision Defined. Subdivision Approval Required for all Development Approvals and Building Permits.

For the purposes of this Ordinance, and the Act, “Subdivision” shall be and shall mean;

Any land that is divided, resubdivided or proposed to be divided into two (2) or more lots, plots, parcels, sites, units, or other division of land for the purpose, whether immediate or future, for

offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

“Subdivision” includes:

1. The division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument; and
2. Except as provided in Section 100-6(1), (2), (3), (4) and (5), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

No person shall subdivide any land, nor shall any building permit be issued by Boulder Town for any lots, plots, parcels, sites, units, which is located wholly or in part within the municipal boundaries of Boulder Town, except in compliance with this Ordinance, and all applicable Local, State and Federal laws.

Any subdivision filed or recorded, without the approvals required by this Ordinance, and the Act is void, for the purposes of development approval or the issuance of a building permit, as required by §10-9-811 *et. seq.* Utah Code Annotated, 1953, as amended.

Any owner, or agent of the owner, of any land located in a subdivision, as defined herein, who transfers or sells any land located within the subdivision before such subdivision has been approved and recorded, consistent with the requirements of this Ordinance, and the Act is guilty of a violation of this Ordinance, and State law, for each lot or parcel transferred or sold.

The description by metes and bounds, or other instrument used in the process of selling or transferring of any lot or parcel of land, does not exempt the transaction from a violation of this Ordinance and the laws of the State of Utah, or from the penalties provided as provided by this Ordinance and the laws of the State of Utah.

Section 100-6. Subdivision Not to Include.

As provided by the Act, "Subdivision" does not include:

1. A bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance;
2. A recorded agreement between owners of adjoining unsubdivided properties adjusting their mutual boundary if:
 - a) no new lot is created; and

- b) the adjustment does not violate applicable land use ordinances;
- 3. A recorded document, executed by the owner of record:
 - a) revising the legal description of more than one contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property; or
 - b) joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances; or
- 4. A recorded agreement between owners of adjoining subdivided properties adjusting their mutual boundary if:
 - a) no new dwelling lot or housing unit will result from the adjustment; and
 - b) the adjustment will not violate any applicable land use ordinance.
- 5. The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Section as to the unsubdivided parcel of property or subject the unsubdivided parcel to this Ordinance.

Section 100-7. Fees and Charges.

The Boulder Town Council shall establish all fees and charges payable for the review by the Town, for subdivision applications, planning, engineering review and inspection services, and other requirements of this Ordinance by Resolution. Such fees and charges may be amended from time to time, as considered necessary, by resolution of the Town Council.

Section 100-8. Restrictions for Solar and other Energy Devices.

As provided by the Act, the Commission may refuse to recommend, and the Council may refuse to approve or renew any plat, subdivision plan, or dedication of any street or other ground, if deed restrictions, covenants, or similar binding agreements running with the land for the lots or parcels covered by the plat or subdivision prohibit or have the effect of prohibiting reasonably sited and designed solar collectors, clotheslines, or other energy devices based on renewable resources from being installed on buildings erected on lots or parcels covered by the plat or subdivision.

Section 100-9. Enforcement.

The Town Zoning Administrator, Building Inspector, Engineer, and Attorney are hereby designated and authorized as responsible for the enforcement of this Ordinance. Failure of the Zoning Administrator, Building Inspector, Engineer, or Attorney to enforce any provision or seek remedies to a violation of this Ordinance shall not legalize any such violation.

The Town, or any adversely affected owner of real estate within the Town in which violations of this Ordinance occur or are about to occur may, in addition to other remedies provided by law, institute:

1. Injunctions, mandamus, abatement, or any other appropriate actions; or
2. Proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.

The Town need only establish the violation to obtain the injunction.

Section 100-10. Violation.

A plat of a subdivision recorded without the approval of the Boulder Town Council is void. No person shall subdivide any land located wholly or in part in the Boulder Town except in compliance with the provisions of this Ordinance. No person shall purchase, sell or exchange any proposed subdivision nor offer for recording in the Office of the Garfield County Recorder any deed conveying such parcel of land, or any fee interest therein, unless such subdivision has been created and approved by Boulder Town pursuant to, and in accordance with the provisions of this Ordinance.

Section 100-11. Penalty.

Any person, organization, corporation, or other entity that violates any provision of this Ordinance shall be guilty of a Class C misdemeanor and is punishable by a fine, imprisonment, or both, as determined by a Court of competent jurisdiction.

A violation of any of the provisions of this Ordinance is punishable as a class C misdemeanor upon conviction either: (a) as a Class C misdemeanor; or (b) by imposing the appropriate civil penalty adopted under the authority of the Act.

Section 100-12. Licenses and Permits.

The Town may enforce this Ordinance by withholding building permits.

It is unlawful to erect, construct, reconstruct, alter, or change the use of any building or other structure within the Town without approval of a building permit.

The Town may not issue a building permit unless the plans of and for the proposed erection, construction, reconstruction, alteration, or use fully conform to all regulations then in effect, including the requirements of this Ordinance, and all other Land Use Ordinances.

From the effective date of this Ordinance, no license or permit, including the issuance of a building permit for the construction, alteration, or modification of any building or structure, shall

be issued by the Town unless such permit or license complies with the requirements and provisions of this Ordinance, including a determination that the lot or parcel proposed for the license or permit, is a legal lot created pursuant to the provisions of this Ordinance, or subsequent Subdivision Ordinances, or is a legal lot of record. Any license or permit issued in conflict with the provisions and requirements of this Ordinance shall be void.

Section 100-13. Appealing a Land Use Authority's Decision.

The applicant, a board or officer of the Town, or any person adversely affected by the Land Use Authority's decision administering or interpreting this Ordinance may, within the time period provided by the Boulder Town Zoning Ordinance, appeal that decision to the Appeal Authority, identified by the Boulder Town Zoning Ordinance, as may be applicable, by alleging that there is error in any order, requirement, decision, or determination made by the Land Use Authority in the administration or interpretation of this Ordinance.

SECTION 200. CONCEPT SUBDIVISION PLANS.

Section 200-1. Concept Subdivision Plan Required.

To promote efficiency in the subdivision process and to create an opportunity for an understanding of the Town's applicable subdivision requirements, all applicants for subdivision approval, located within Boulder Town, shall present a Concept Subdivision Plan of the proposed subdivision to the Planning Commission for initial review.

Section 200-2. Concept Subdivision Plan Requirements.

The Concept Subdivision Plan is an informal discussion document only, designed to allow the identification of application procedures, requirements and standards, and other items that may be considered in the subdivision approval processes once a complete subdivision application is received. To achieve these objectives no specific concept plan submission requirements are identified. However, the applicant should provide, and the Planning Commission may request, information necessary to identify all issues affecting the proposed subdivision.

Section 200-3. Consideration and Effect of Concept Subdivision Plan.

The Planning Commission shall discuss the Concept Subdivision Plan with the applicant at a Planning Commission meeting. The Planning Commission and the applicant may review the procedure anticipated for subdivision approval, application requirements, other applicable Town, County, State, and Federal requirements, and any other matters deemed appropriate.

Section 200-4. Concept Subdivision Plan – Not an Application for Subdivision Approval.

A Concept Subdivision Plan shall not constitute an application for subdivision approval and is in no way binding on the Town or the applicant. *Any discussion before the Planning Commission, at the meeting when the concept plan is discussed, shall not be considered any indication of subdivision approval or disapproval, either actual or implied.*

An application for subdivision approval shall only be considered filed with Boulder Town upon the submission of ALL information and materials as required for a subdivision application, as contained herein.

Section 200-5. Subdivision Recommendation Prohibited at the Meeting when Concept Plan Discussed.

The Boulder Town Planning Commission is hereby prohibited from rendering any recommendation for any proposed subdivision at the same meeting when the Concept Subdivision Plan for such proposed subdivision is discussed by the Planning Commission.

FIGURE 1
DETERMINATION OF APPLICATION COMPLETENESS PROCEDURES

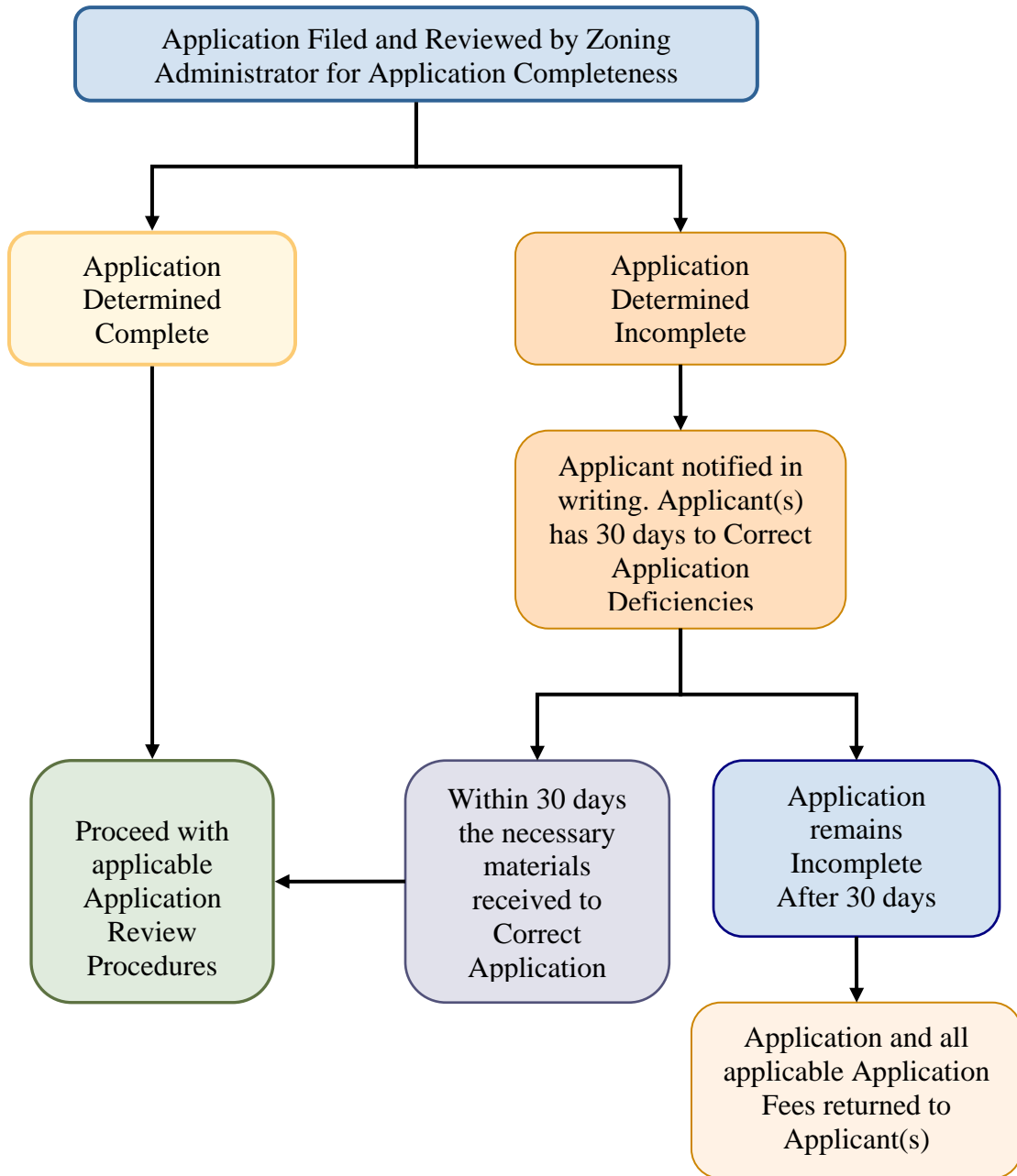
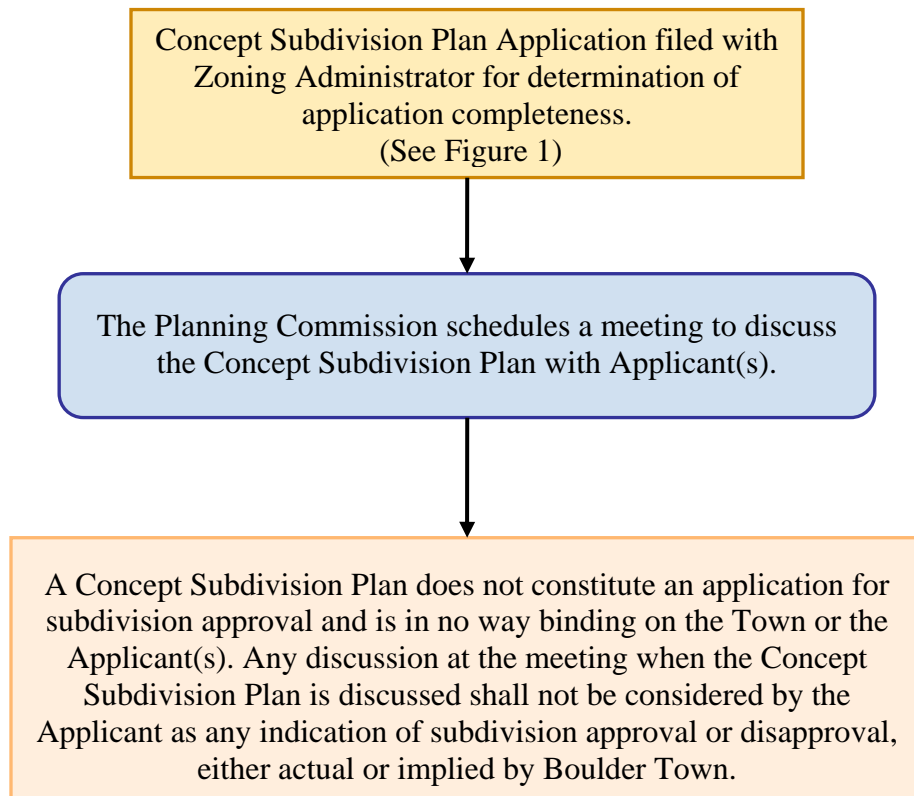


FIGURE 2

CONCEPT SUBDIVISION PLAN APPLICATION REVIEW PROCEDURES



Boulder Town Subdivision Ordinance (Amended)
As Amended to 5/8/2008 by Ordinance #58

SECTION 300. RESERVED

SECTION 400. PRELIMINARY SUBDIVISION APPLICATION.

Section 400-1. Intent.

It is the intent of this Ordinance that a decision on a Preliminary Subdivision Application be a discretionary action of the Town Council, accompanied with findings of fact, following the receipt of a Planning Commission recommendation. For the purposes of this Ordinance, the procedures and requirements for the consideration of Preliminary Subdivision Applications are provided to allow for the consideration of all items in relation to the subdivision of land located within the Town. The Planning Commission and Town Council shall identify and address all items applicable to a Preliminary Subdivision Application prior to providing a recommendation, or deciding, a Preliminary Subdivision Application. It is the intent of this Ordinance that all items applicable to a Preliminary Subdivision Application be fully addressed by the applicant, the Town, and other reviewing agencies prior to any action by the Planning Commission, or Town Council.

Section 400-2. Requirements for Preliminary Subdivision Applications.

All Preliminary Subdivision Applications filed with Boulder Town are required to provide the following information. The applicant may be required to provide other information required by the Planning Commission or Town Council necessary to evaluate the merits of the proposed subdivision.

1. Application.

A Preliminary Subdivision Application form, provided by Town Clerk, completed and signed by the owner(s) as identified on the property assessment rolls of Garfield County, or authorized agent of the owner(s), of the lands proposed to be subdivided. The Preliminary Subdivision Application shall be accompanied by the Preliminary Subdivision Application fee, including a non-refundable administrative processing fee, as established by Resolution of the Town Council.

2. Preliminary Subdivision Plat.

A Preliminary Subdivision Plat, prepared by a licensed land surveyor, shall be provided. The Preliminary Subdivision Plat shall be prepared in pen and all sheets shall be numbered. A minimum of twelve (12) paper copies shall be presented to the Town Clerk, as part of the Preliminary Subdivision Application. The Planning Commission may request additional copies if required.

The Preliminary Subdivision Plat shall show the following:

- a. A layout plan of the proposed subdivision, at a scale of no more than 1" = 100', or as recommended by the Zoning Administrator.

- b. Located at the top and center of the preliminary plat, the proposed name of the subdivision and the section, township, range, principal median, and county of its location.
- c. A title block, placed on the lower right-hand corner of the plat showing:
 - i. Name and address of owner of record and the name and address of the licensed land surveyor responsible for preparing the preliminary plat.
 - ii. Date of preparation of the preliminary subdivision plat, and all revision dates.
 - iii. Signature blocks for the dated signatures of the Mayor and Planning Commission Chair.
- d. North arrow, graphic and written scale, and basis of bearings used.
- e. All proposed lots, rights-of-way, and easements created by the subdivision and their bearings, lengths, widths, name, number, or purpose shall be given. The area of all lots created, with their addresses shall be shown.
- f. A vicinity map of the site at a minimum scale of 1" = 1000'.
- g. Surveyed boundaries of the proposed subdivision; accurate in scale, dimension and bearing, and giving the location of and ties to the nearest survey monument. The location of the property with respect to surrounding property and roads, and the names of all adjoining property owners of record shall be shown.
- h. The legal description of the entire subdivision site boundary.
- i. The location of any common space or open space areas including the location of all property proposed to be set aside for public or private reservation, with the designation of the purpose of those set asides, and conditions, if any, of the dedication or reservation.

3. Required Subdivision Site Information.

On separate sheets, at the same scale as the preliminary subdivision plat information, the following subdivision site information is required:

- a. The identification of known natural features including, but not limited to, jurisdictional wetlands as identified by the U.S. Army Corps of Engineers, areas of slope exceeding 30% grade, flood channels as identified by a Federal or State Agency, all water bodies and drainage ways, and any other natural features as required by the Planning Commission, or Town Council, for the entire subdivision site, including the total acres in each.

- b. Existing site contours, at intervals of no greater than two (2) feet, unless otherwise approved by the Planning Commission, overlaid with the proposed subdivision layout plan.
- c. The location of any known man-made features on or contiguous to the subdivision site, including existing platted lots, all utility easements, railroads, power lines and power poles, bridges, culverts, drainage channels, road rights-of-way and easements, field drains, irrigation canals and ditches.
- d. The location and dimensions of all existing buildings, fence lines and property lines, overlaid with the proposed subdivision layout plan.
- e. The layout of proposed power lines including the source and connection to the existing power supply.
- f. All existing and proposed roadway locations and dimensions, with cross sections of all new roads, proposed to be dedicated to the Town, showing the grades of all proposed streets and roads and all proposed cuts and fills exceeding three (3) feet. The proposed radius of all centerline curves shall be shown.
- g. The location and size of existing and proposed culinary water and sewer lines and/or the location of all wells and springs, and the location of all proposed absorption and drain fields, as required by the South West Utah Public Health Department, or the Utah Department of Environmental Quality, as applicable, overlaid with the proposed subdivision layout plan.
- h. Proposed storm drainage system.
- i. The location of all existing and proposed fire hydrants, including the sizes of all existing and proposed water lines serving fire hydrants

4. Title Report.

A Title Report for the property proposed to be subdivided, provided by a Title Company directly to the Town and including all Abstract Pages within 30 days of the date of the Preliminary Subdivision Application.

5. Tax Clearance.

A tax clearance from the Garfield County Treasurer indicating that all taxes, interest, and penalties owing for the subject property have been paid.

6. Property Owner Addresses.

Addresses of all owners of record of real property within 300 feet of the site proposed to be subdivided.

7. Evidence of Availability of Necessary Services.

The following information is required to be presented as part of the Preliminary Subdivision Application, necessary to establish the availability of basic services to the proposed subdivision.

a. Culinary Water Requirements.

The South West Utah Public Health Department, or the Utah Department of Environmental Quality, as applicable, identified herein as the “Culinary Water Authority,” shall review and approve the feasibility of the culinary water system and sources for the subject property. It shall be the responsibility of the applicant to provide information and materials as required by South West Utah Public Health Department, or the Utah Department of Environmental Quality, necessary to review and approve the feasibility of the culinary water system

b. Wastewater Requirements.

The South West Utah Public Health Department or the Utah Department of Environmental Quality, as applicable, identified herein as the “Sanitary Sewer Authority,” shall review and approve the feasibility of sanitary sewer services or onsite wastewater systems for the subject property. It shall be the responsibility of the applicant to provide information and materials as required by the South West Utah Public Health Department, or the Utah Department of Environmental Quality, necessary to review and approve the feasibility of the sanitary sewer services or onsite wastewater systems.

c. Fire Protection and Suppression Requirements.

The Boulder Town Fire Authority shall review and make necessary recommendations, as determined necessary by the Fire Authority for necessary fire protection and suppression services for the subject property. It shall be the responsibility of the applicant to provide information and materials as required by the Boulder Town Fire Authority necessary to review and make recommendations of the fire protection and suppression facilities and services.

d. Storm Drainage System.

As required by Item 7, all preliminary subdivision applications shall identify plans for storm water drainage. No ditch or canal shall be proposed for the use of storm water

runoff without the written approval of the applicable irrigation company, with a note on the preliminary plat identifying a proposed and recordable drainage easement.

8. Subdivision Roads and Streets. (Amended by Ordinance #49A, 3/3/2004)

- a. The preliminary subdivision plat, and other application materials, shall identify the proposed road and street layout. Proposed subdivision streets shall make provision for the continuation of existing streets, as required by the Town Council.
- b. The Town Engineer, as appointed by the Council, may review the proposed street and road design for compliance with the requirements of the Town. The proposed street and road layout shall provide adequate and safe access to all proposed lots and proposed and existing roads and streets. Minimum lot sizes as required by the Town's Zoning Ordinance shall be exclusive of road easements and rights-of-way. If the subdivision will be accessed from a State Highway, an appropriate access permit, as required by the State of Utah Department of Transportation, shall be provided with the application materials. (Amended by Ordinance #50).

All streets proposed to be created within Boulder Town, whether proposed to remain private or proposed to be dedicated to Boulder Town, shall meet the requirements of this Section.

1. As required by Section 706, Boulder Town Zoning Ordinance, all lots shall have frontage upon a dedicated or publicly approved road or street, or right-of-way providing direct access to a dedicated or publicly approved road or street. All lots shall have frontage, as required by the minimum lot width requirements for the zoning district in which the lot is located, as provided by Table 2, Table of Development Standards, Boulder Town Zoning Ordinance.
2. The layout of all proposed streets shall recognize and provide adequate and appropriate connection(s) to adjoining properties and the proposed street layout shall not impose any undue hardship on adjoining properties.
3. All streets proposed to be created shall identify a permanent method of street maintenance. If the proposed street is not proposed for dedication to the Town, or if the Town is unwilling to accept dedication, an appropriate method for long-term maintenance of the private street must be proposed, for approval by the Town Council. Acceptance of dedication of a proposed street is at the full discretion of the Town Council.
4. All streets shall meet the minimum design standards as follows:

STANDARDS FOR ALL PROPOSED STREETS	
Street Design Item	Minimum Requirement
Street Right-of-Way	40 feet, except a larger street right-of-way may be required by Boulder Town, or the Utah Department of Transportation, as applicable, to ensure the street meets anticipated future traffic needs and public safety requirements.
Location of Utilities	Required utilities may be located within the required street right-of-way, as may be authorized by Boulder Town, Garfield County, or the Utah Department of Transportation. However, if the utility provider requires a separate utility easement, said easement shall be in addition to the minimum street right-of-way as may be required by Boulder Town, Garfield County, or the Utah Department of Transportation, as applicable.
Underground Utilities	All power lines, telephone lines, and other required utilities are encouraged to be placed underground.
Maximum Grade	No street shall be designed where any area of the street right-of-way is greater than eight percent (8%) of vertical rise for a maximum distance of 100 feet of horizontal run.
Maximum Grade at Intersections	The maximum grade of all streets shall not exceed two percent (2%) of vertical rise for a maximum distance of 100 feet of horizontal run within 100 feet of a street intersection.
Minimum Driving Surface	18 feet.
Roadway Surface	An All-Weather surface shall be provided, as determined by the Town, Garfield County, or the Utah Department of Transportation, as applicable.
Cul-De-Sacs and Dead-End Streets	All cul-de-sac or dead-end streets shall have a minimum 50-foot minimum radius turn around at the street or road termination.
Intersections	All streets shall intersect at a minimum and maximum ninety-degree (90°) angle.
Street Offset	No street shall intersect with any existing or proposed street closer than 200 feet of any other existing or proposed street intersection.

STANDARDS FOR ALL PROPOSED STREETS	
Street Design Item	Minimum Requirement
Street Lighting	Street lighting shall be provided as required by Boulder Town, Garfield County, or the Utah Department of Transportation, as applicable.
Fire Hydrants	Where feasible, all lots shall be located within 400 feet of a fire hydrant, located within the street right-of-way or easement(s), as approved by the Town Fire Marshal.
Storm Drainage	Streets shall provide a storm drainage system, including culverts where drainage water cross the street or road or when determined necessary by Boulder Town or the Utah Department of Transportation, and a bar ditch with a maximum slope of 6:1.
Shoulders	All streets shall provide a roadside foreslopes and backslopes in the roadside shall be 4:1 or flatter.
Traffic Control Signs	Traffic control signs shall be installed at intersections and shall conform to the Manual of Uniform Traffic Control Devices (MUTCD).

For the purposes of this Section, a “street” shall be defined as “any vehicular way providing access to two (2) or more lots.” The Planning Commission and Town Council have some latitude in applying this Section to subdivisions proposing the creation of four (4) or less lots, where, in their sole discretion, this Section would create an undue hardship for the Applicant. A street may remain in private ownership as a “private street” or be dedicated to Boulder Town as a “public street.” A private right-of-way may be used to access up to four (4) lots, provided such private right-of-way has direct access to a dedicated or publicly approved road or street. A private driveway is not required to meet the requirements of this Section, except a private driveway is required to meet all public safety requirements, as may be required by the Town Fire Marshal. (Amended by Ordinance #49A – passed 3/3/2004)

9. Special Service District or Special Service Area.

If the proposed subdivision is located within the boundaries of a Special Service District or a Special Service Area, a letter shall be provided, with the preliminary subdivision application materials, from the governing board acknowledging the proposed subdivision, which letter may identify any potential impacts resulting from the proposed subdivision.

10. Irrigation Company.

If the proposed subdivision is located within the boundaries of an Irrigation Company a letter shall be provided, with the preliminary subdivision application materials, from the governing board acknowledging the proposed subdivision, which letter may identify any potential impacts resulting from the proposed subdivision.

11. Additional Information and Materials when Necessary.

When the Planning Commission or Town Council deem necessary, the applicant may be required to provide other information or letters of feasibility, conduct studies, and provide evidence indicating the suitability of the area for the proposed subdivision, including, but not limited to, adequacy of public safety and fire protection, ground water protection, plant cover maintenance, geologic or flood hazard, erosion control, wildlife habitat, and any other physical or environmental matters.

Section 400-3. Preliminary Subdivision Application - Engineering Review Fees.

As Boulder Town does not employ a full-time professional engineer, the applicant for Preliminary Subdivision Application approval shall pay all costs incurred by the Town for the provision of engineering services, provided by a licensed engineer, and necessary to review the Preliminary Subdivision Application materials, for conformity to the requirements of this Ordinance, other Town Ordinances and requirements, and accepted civil engineering standards and practice.

Section 400-4. Zoning Administrator to Determine a Complete Application.

Prior to considering a Preliminary Subdivision Application, the Zoning Administrator shall determine and find that the Preliminary Subdivision Application is complete and contains all Preliminary Subdivision Application materials as required by this Ordinance.

Section 400-5. Lack of Preliminary Subdivision Application Information - Determination of Incomplete Application.

The lack of any information required for a Preliminary Subdivision Application, as required by this Ordinance, shall be cause for the Zoning Administrator to find the Preliminary Subdivision Application incomplete.

A Zoning Administrator determination of an incomplete Preliminary Subdivision Application shall prohibit the Planning Commission from considering any material, items or other information related to the proposed subdivision. The Zoning Administrator shall notify the applicant, in writing, of the required information lacking from the Preliminary Subdivision Application. The Zoning Administrator shall allow a minimum of thirty (30) days, from the date

of notification of an incomplete Preliminary Subdivision Application, for the applicant to provide the required information to the Town Clerk. If the Preliminary Subdivision Application remains incomplete after a minimum of thirty (30) days from date of notification, the Zoning Administrator shall return the entire incomplete application to the applicant, accompanied by any Preliminary Subdivision Application fees paid.

Any person(s) aggrieved by a decision of the Zoning Administrator of a Determination of Application Completeness may appeal the Zoning Administrator's decision to the Board of Adjustment.

**Section 400-6. Preliminary Subdivision Application Approval Procedures.
Planning Commission Recommendation.**

Following a determination of a complete Preliminary Subdivision Application by the Zoning Administrator, the preliminary subdivision application shall be scheduled for a public hearing and consideration by the Planning Commission. The Planning Commission shall schedule the public hearing and consider the Preliminary Subdivision Application at a regular Planning Commission meeting, with notice of the meeting being provided as required by this Ordinance and providing necessary Applicant Notice as required by Section 900-3 herein.

Information to be provided for consideration with the Preliminary Subdivision Application.

1. The South West Utah Public Health Department or the Utah Department of Environmental Quality, as applicable, shall present information approving the feasibility of the culinary water system and sources for the subject property, and the sanitary sewer services or onsite wastewater systems for the subject property to the Planning Commission for review in considering the Preliminary Subdivision Application.
2. The Boulder Town Fire Authority shall present information recommending necessary fire protection and suppression services and facilities to the Planning Commission for review in considering the Preliminary Subdivision Application.
3. An engineer approved by the Town, the County Engineer, any affected Special Service District, Special Service Area, or any affected Irrigation Company may present information and materials to the Planning Commission for review in considering the Preliminary Subdivision Application.

Planning Commission Recommendation.

Following consideration of the Preliminary Subdivision Application, and all information and materials presented, the Planning Commission may recommend approval of the Preliminary Subdivision Application as presented, recommend approval of the Preliminary Subdivision

Application with conditions, or recommend denial of the Preliminary Subdivision Application. The Planning Commission may recommend onsite and offsite improvements, facilities and amenities, provided one hundred percent (100%) by the applicant for subdivision approval, and determined necessary by the Planning Commission to protect the health, safety, and welfare of anticipated residents of the subdivision, or the existing residents of the Town, including but not limited to:

1. Road and street improvements, including layout, design, grading and surfacing.
2. Flood control facilities.
3. Culinary Water facilities.
4. Sanitary Sewer facilities.
5. Fire protection facilities, including fire hydrants and water storage facilities.
6. Storm Drainage facilities.
7. Park and open space areas and facilities.
8. Irrigation facilities.
9. Electrical power and telephone facilities.
10. Fencing and buffering treatments.

The Planning Commission shall transmit its recommendation to the Town Council for consideration.

Town Council Consideration of Preliminary Subdivision Application.

Following receipt of the Planning Commission's recommendation, the Town Council shall consider the Planning Commission's recommendation, the Preliminary Subdivision Application materials, and all other information, at a regular Town Council meeting, with notice of the Preliminary Subdivision Application agenda item being provided as required by this Ordinance.

Information to be provided for consideration with the Preliminary Subdivision Application.

1. The South West Utah Public Health Department or the Utah Department of Environmental Quality, as applicable, shall present information approving the feasibility of the culinary water system and sources for the subject property, and the sanitary sewer services or onsite wastewater systems for the subject property to the Town Council for review in considering the Preliminary Subdivision Application.
2. The Boulder Town Fire Authority shall present information recommending necessary fire protection and suppression services and facilities to the Town Council for review in considering the Preliminary Subdivision Application.
3. An engineer approved by the Town, the County Engineer, any affected Special Service District, Special Service Area, or any affected Irrigation Company may present information

and materials to the Town Council for review in considering the Preliminary Subdivision Application.

Town Council Approval.

Following consideration of the Preliminary Subdivision Application and all information and materials presented, the Town Council shall approve the Preliminary Subdivision Application as presented, approve the Preliminary Subdivision Application with conditions, or deny the Preliminary Subdivision Application. The Town Council may require onsite and offsite improvements, facilities and amenities, provided one hundred percent (100%) by the applicant for subdivision approval, and determined necessary by the Town Council to protect the public health, safety and welfare of anticipated residents of the subdivision, or the existing residents of the Town, including but not limited to:

1. Road and street improvements, including layout, design, grading and surfacing.
2. Flood control facilities.
3. Culinary Water facilities.
4. Sanitary Sewer facilities.
5. Fire protection facilities, including fire hydrants and water storage facilities.
6. Storm Drainage facilities.
7. Park and open space areas and facilities.
8. Irrigation facilities.
9. Electrical power and telephone facilities.
10. Fencing and buffering treatments.

Section 400-7. Effect of Preliminary Subdivision Approval and Effective Period.

1. Subdivisions Not Proposing or Not Being Required to Provide any Public Dedications, New Public Infrastructure, or Infrastructure Improvements.

For subdivisions not proposing, or being required to provide any dedications, or any new public infrastructure or infrastructure improvements, a Preliminary Subdivision Application approval by the Town Council shall act as the final subdivision approval. Following the approval of the Preliminary Subdivision Application, the Preliminary Subdivision Plat shall be revised, as required by the Town Council, and presented to the Town Clerk for recordation in the Office of the Garfield County Recorder. At a minimum, the Preliminary Subdivision Plat shall be revised, as necessary, to be in a form acceptable for recordation. For such subdivisions, a subdivision approval by the Town Council shall not authorize the division or development of land until the subdivision plat has been recorded.

The approval of a Preliminary Subdivision Application not proposing, or being required to provide any public dedications or new public infrastructure or infrastructure improvements, shall be effective for a period of one (1) year from the date of approval by the Boulder Town Council.

If a Preliminary Subdivision Plat is not revised, as required by the Town Council, and is not presented to the Town Attorney, and is not recorded within one (1) year from the date of approval by the Town Council, the Preliminary Subdivision Application approval shall be void, and the applicant shall be required to submit a new Preliminary Subdivision Application, subject to the then existing application and approval requirements in effect, and all other applicable Town, State and Federal requirements.

2. Subdivisions Proposing, or Being Required to Provide any Public Dedications, New Public Infrastructure, or Infrastructure Improvements.

For subdivision proposing, or being required to provide any public dedications, new public infrastructure, or infrastructure improvements, the approval of a Preliminary Subdivision Application by the Town Council shall not constitute final approval of the subdivision by the Town, but permits the applicant to proceed with the preparation of the Final Subdivision Application and all required documents. For such subdivisions, a Preliminary Subdivision Application approval shall not authorize the division or development of land, but shall allow the presentation to the Town of a Final Subdivision Application.

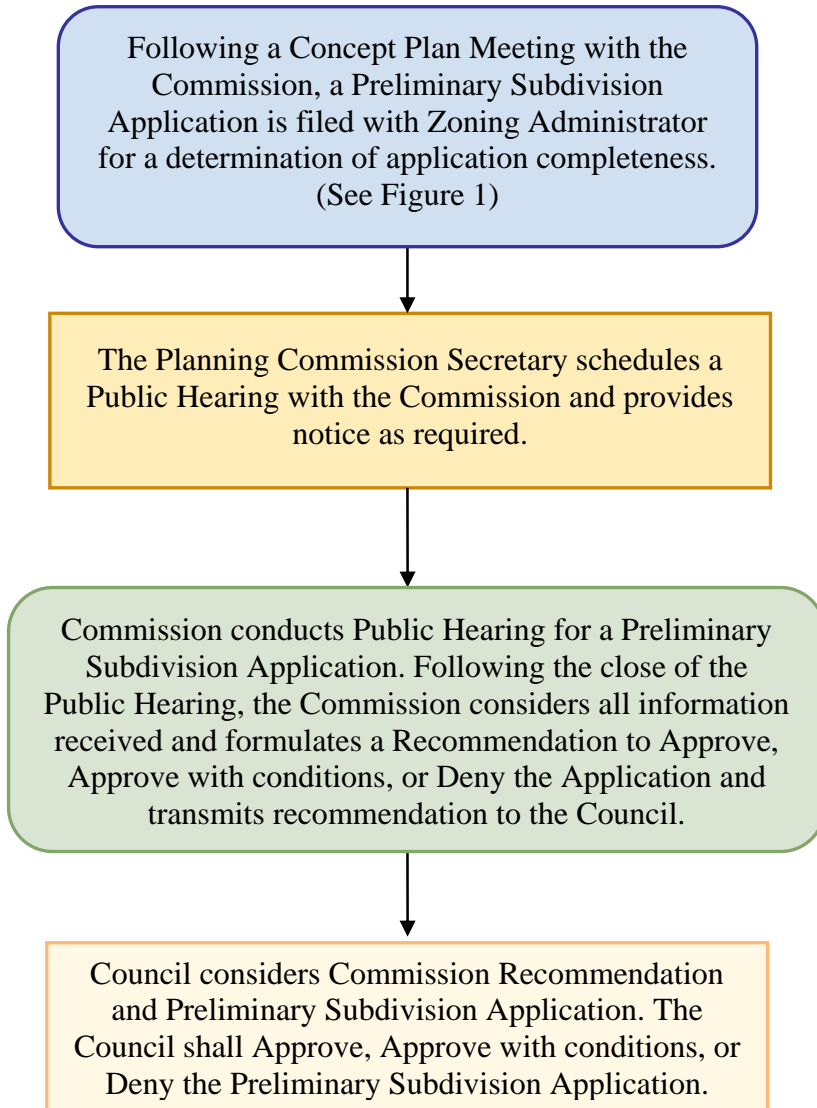
The approval of a Preliminary Subdivision Application proposing, or being required to provide public dedications, new public infrastructure, or infrastructure improvements shall be effective for a period of one (1) year from the date of approval by the Boulder Town Council, at the end of which time the applicant shall have submitted a Final Subdivision Application for approval. If a Final Subdivision Application is not received by the Town Clerk within the one (1) year period, the Preliminary Subdivision Application approval shall be void, and the applicant shall be required to submit a new Preliminary Subdivision Application, subject to the then existing application and approval requirements in effect, and all other applicable Town, State and Federal requirements.

Section 400-8. Site Preparation Work Prohibited.

No excavation, grading or regrading shall take place on any subdivision site, and no building permits shall be issued by the Town, until a Final Subdivision Plat has been recorded in the Office of the Garfield County Recorder, as provided herein.

FIGURE 3

**PRELIMINARY SUBDIVISION APPLICATION
REVIEW PROCEDURES**



SECTION 500. FINAL SUBDIVISION APPLICATION.

Section 500-1. Intent.

It is the intent of this Ordinance that the approval of a Final Subdivision Application be a ministerial action by the Boulder Town Council, accompanied with findings of fact, and assuring compliance with all applicable requirements of this Ordinance and any conditions imposed by the Town Council for Preliminary Subdivision Application approval.

The Town Council shall consider the Final Subdivision Application at a regular Town Council meeting, with notice of the Final Subdivision Application agenda item being provided as required by this Ordinance and providing necessary applicant notice as required by Section 900-4 herein.

Section 500-2. Requirements for Final Subdivision Applications.

All Final Subdivision Applications are required to provide the following information:

1. Application.

A Final Subdivision Application form, provided by Town Clerk, completed and signed by the owner(s) as identified on the property assessment rolls of Garfield County, or authorized agent of the owner(s) of the lands proposed to be subdivided. The Final Subdivision Application shall be accompanied by the Final Subdivision Application fee, including a non-refundable administrative processing fee, as established by Resolution of the Town Council.

2. Final Subdivision Plat.

A Final Subdivision Plat, prepared by a licensed land surveyor, conforming to current surveying practice and in a form acceptable to the Garfield County Recorder for recordation. The Final Subdivision Plat shall be prepared in pen and all sheets shall be numbered. All required certificates shall appear on a single sheet (along with the index and vicinity maps). The Final Subdivision Plat shall be drawn on reproducible mylar. A minimum of ten (10) paper copies shall be presented to the Town Clerk as part of the Final Plat Application. The Final Subdivision Plat presented to the Town Clerk shall contain the same information as required by Section 400-2(2) herein and shall include any revisions or additions as required by the Town Council as part of Preliminary Subdivision Application approval.

The Final Subdivision Plat shall show the following:

- a. Notation of any self-imposed restrictions, including proposed final restrictive covenants, signed by all owners of interest and bearing the acknowledgment of a public notary, and all other restrictions as required by the Town Council in accordance with this Ordinance.

- b. Endorsement on the final plat by every person having a security interest in the subdivision property subordinating their liens to all covenants, servitudes, and easements imposed on the property.
- c. The location of all monuments erected, corners, and other points established in the field. The material of which the monuments, corners, or other points are made shall be noted. Bearings shall be shown to the nearest second; lengths to the nearest hundredth foot; areas to the nearest hundredth acre.
- d. The owner's certificate of dedication including a legal description of the subdivision's boundaries and the dedication of any public ways or spaces. This certificate shall be signed, dated, and notarized. The owner's certificate shall include a reference to any covenants that may be declared and blanks where the County Recorder may enter the book and page number of their recording.
- e. Signature blocks prepared for the dated signatures, as required by the Town.

3. Title Report.

If the Final Subdivision Application is filed with the Town Clerk after 180 days from the date the Preliminary Subdivision Application is approved by the Town Council, a Title Report, no older than 30 days, shall be provided as part of the Final Subdivision Application.

4. Other Final Subdivision Application Information and Materials.

The following information is required to be presented as part of the Final Subdivision Application:

- a. Establishment of any bonds and agreements and the payment of any engineering inspection fees.
- b. Final design and construction drawings for all proposed or required public improvements, prepared by a licensed engineer, including the profiles and cross sections of all existing and proposed streets, and designed as required by the Town, all storm drainage and flood control facilities, the elevations and location of fire hydrants, required culinary water facilities, sanitary sewer facilities, and all other provided and required public facilities and improvements.

Section 500-3. Common Area Parcels on a Plat -- No Separate Ownership -- Ownership interest equally divided among other parcels on plat and included in description of other parcels.

A parcel designated as common area on a plat recorded in compliance with this Ordinance may not be separately owned or conveyed independent of the other parcels created by the plat.

The ownership interest in a parcel described in Section (1) shall:

1. For purposes of assessment, be divided equally among all parcels created by the plat, unless a different division of interest for assessment purposes is indicated on the plat or an accompanying recorded document; and
2. Be considered to be included in the description of each instrument describing a parcel on the plat by its identifying plat number, even if the common area interest is not explicitly stated in the instrument.

Section 500-4. Dedication of Streets and other Public Places.

Plats, when made, acknowledged, and recorded according to the procedures specified in this Ordinance, and as determined necessary by the Town, operate as a dedication of all streets and other public places to Boulder Town for the uses named or intended in those plats.

The dedication established by this Section does not impose liability upon Boulder Town for streets and other public places that are dedicated in this manner but are unimproved.

Section 500-5. Final Plat Engineering Review Fees.

As Boulder Town does not employ a full-time professional engineer, the applicant for Final Subdivision Application approval shall pay all costs incurred by the Town for the provision of engineering services provided by a licensed engineer and appointed by Town Council, acting as the Town Engineer, necessary to review the Final Subdivision Application materials, as required herein, for conformity to the requirements of this Ordinance and accepted engineering standards and practice.

Section 500-6. Zoning Administrator to Determine a Complete Final Subdivision Application.

Prior to the consideration of the Final Subdivision Application by the Town Council, the Zoning Administrator shall determine and find that the Final Subdivision Application is complete and contains all application materials as required herein.

Section 500-7. Lack of Final Subdivision Application Information - A Determination of an Incomplete Application.

The lack of any information required for a Final Subdivision Application, as required by this Ordinance, shall be cause for the Zoning Administrator to find the Final Subdivision Application incomplete.

A Zoning Administrator determination of an incomplete Final Subdivision Application shall prohibit the Town Council from considering any material, items or other information related to the proposed subdivision. The Zoning Administrator shall notify the applicant, in writing, of the required information lacking from the Final Subdivision Application. The Zoning Administrator shall allow a minimum of thirty (30) days, from the date of notification of an incomplete Final Subdivision Application, for the applicant to provide the required information to the Town Clerk. If the Final Subdivision Application remains incomplete after a minimum of thirty (30) days from date of notification, the Zoning Administrator shall return the entire incomplete application to the applicant, accompanied by any Final Subdivision Application fees paid.

Any person(s) aggrieved by a decision of the Zoning Administrator of a Determination of Application Completeness may appeal the Zoning Administrator's decision to the Board of Adjustment.

Section 500-8. Final Subdivision Approval Procedures.

The Town Council is identified and authorized as the approval authority for Final Subdivision Applications, assuring compliance with all applicable requirements of this Ordinance. The Town Council may approve the Final Subdivision Application, approve the Final Subdivision Application with conditions, or deny the Final Subdivision Application, accompanied by findings of fact.

Section 500-9. Nature and Effective Period of Final Subdivision Approval.

After a Final Subdivision Application has been approved by the Town Council, the Final Subdivision Plat shall be revised as required and presented to the Town Clerk for recording in the Office of the Garfield County Recorder. After the Final Subdivision Plat has been recorded by the Town Clerk, the applicant may apply for building permits consistent with the approved and recorded Final Subdivision Plat and the Town's requirements for a building permit.

The approval of a Final Subdivision Application shall be effective for a period of one (1) year from the date the Final Subdivision Application is approved by the Town Council, at the end of which time the Final Subdivision Plat shall have been presented to the Town Clerk and recorded in the Office of the Garfield County Recorder. If the approved Final Subdivision Plat is not presented to the Town Clerk for recording within the one (1) year period of date of approval the Final Subdivision Application approval shall be void, and the applicant shall be required to

Boulder Town Subdivision Ordinance (Amended)
As Amended to 5/8/2008 by Ordinance #58

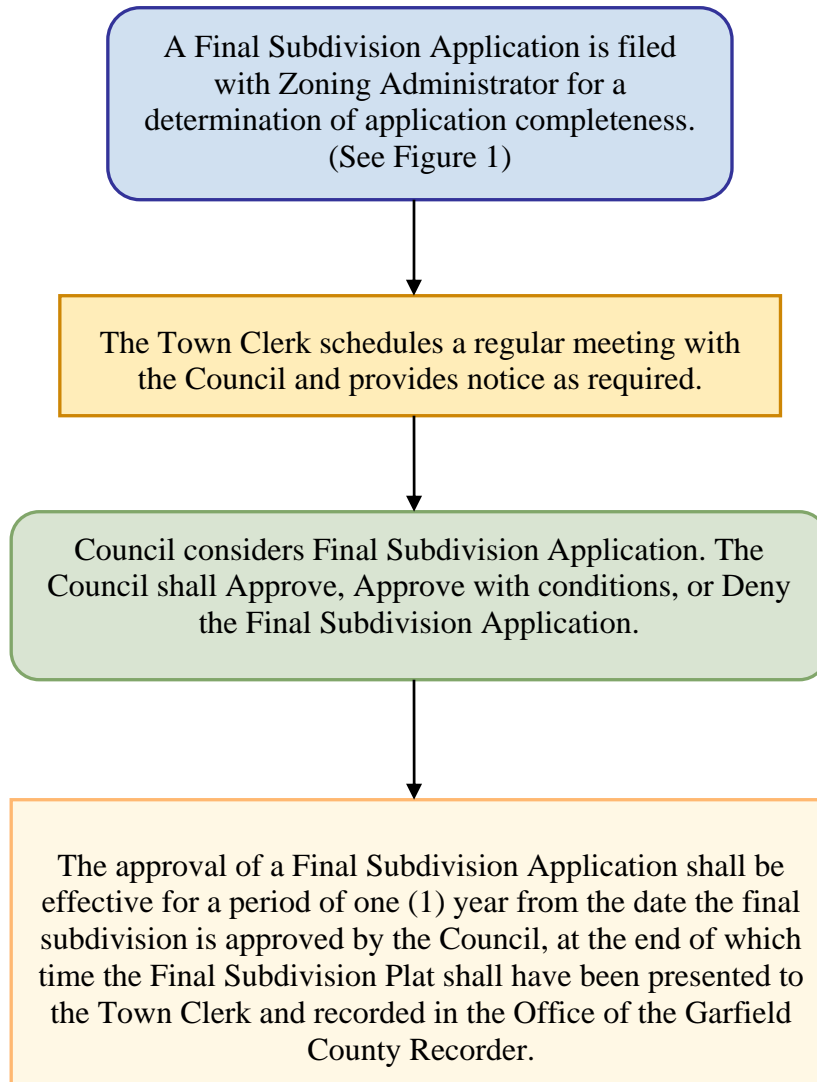
submit a new Preliminary Subdivision Application, subject to the then existing Preliminary Subdivision Application provisions of this Ordinance and all other applicable Town, State and Federal requirements.

Section 500-10. Site Preparation Work Prohibited.

No excavation, grading or regrading shall take place on any subdivision site, and no building permits shall be issued by the Town, until the Final Subdivision Plat has been recorded in the Office of the Garfield County Recorder, as provided herein.

FIGURE 4

**FINAL SUBDIVISION APPLICATION
REVIEW PROCEDURES**



SECTION 600. BUILDING PERMITS.

Section 600-1. Building Permit Issuance.

Legal Lot Required.

The Boulder Town Building Inspector shall not issue any permit for a proposed building or structure, excluding agricultural buildings, on a lot within the corporate boundaries of the Town unless:

1. The lot is within a subdivision and the lot was legally created pursuant to this Ordinance, or prior Subdivision Ordinances.
2. The lot is a legal lot of record, such lot being created and recorded in the Office of the Garfield County Recorder prior to September 11, 1998.

Section 600-2. Building Permit Application.

All proposed buildings, structures, facilities and uses located within the corporate boundaries of Boulder Town, excluding agricultural buildings to the extent exempted by the laws of the State of Utah, and requiring the approval and issuance of a building permit, as required by the building codes of Boulder Town, shall present a building permit application for review by the Town's Building Inspector.

As provided by Section 100-12 herein the Town may enforce this Ordinance by withholding building permits.

It is unlawful to erect, construct, reconstruct, alter, or change the use of any building or other structure within the Town without approval of a building permit.

The Town may not issue a building permit unless the plans of and for the proposed erection, construction, reconstruction, alteration, or use fully conform to all regulations then in effect, including the requirements of this Ordinance, and all other Land Use Ordinances.

From the effective date of this Ordinance, no license or permit, including the issuance of a building permit for the construction, alteration, or modification of any building or structure, shall be issued by the Town unless such permit or license complies with the requirements and provisions of this Ordinance, including a determination that the lot or parcel proposed for the license or permit is a legal lot created pursuant to the provisions of this Ordinance, or subsequent Subdivision Ordinances, or is a legal lot of record. Any license or permit issued in conflict with the provisions and requirements of this Ordinance shall be void.

SECTION 700. SUBDIVISION CONSTRUCTION.

Section 700-1. Construction of Required Subdivision Improvements.

Construction of any required subdivision improvements, including infrastructure and facilities, necessary to meet the requirements of this Ordinance, and any conditions required by the Town Council for final subdivision approval, shall comply with the public infrastructure construction and design requirements, as established by the Town Council.

Section 700-2. Proceeding With Subdivision Construction.

Following the recording of the final subdivision plat in the office of the Garfield County Recorder, the landowner may proceed with construction of the approved subdivision. However, no improvements shall be installed until their location and "cut sheets" have been approved by an engineer approved by the Town. Water mains, sewer lines, laterals, drainage facilities, and fire hydrants shall be installed and tested prior to the surfacing of roads and the installation of road base. A preconstruction meeting may be held, as directed by an engineer approved by the Town, prior to the installation of any public improvements.

Section 700-3. As-Built Drawings.

At the completion of subdivision construction (and prior to final escrow release), the landowner shall deliver to an engineer approved by the Town two (2) sets of "as-built" drawings. These drawings shall show all approved changes made during construction and provide physical ties for all water lines, valves, sewer lines, manholes, etc. No bonds held by the Town will be released until the as-built drawings are received by an engineer approved by the Town.

Section 700-4. Guarantees and Escrow Bond.

Based on a cost estimate submitted by the applicant's engineer, an engineer approved by the Town will prepare the bond estimate, revising the costs as required to match prevailing conditions for the construction and installation of all required public improvements, and including a twenty percent (20%) contingency fee. An escrow bond and public improvement agreements bond payment, and inspection fees shall be submitted to an engineer approved by the Town before the final subdivision plat is recorded by the Town Clerk.

The amounts stated in the bond estimate shall be considered individual and separate with respect to releases by the Town Council, but each amount shall be applicable to every other part in the event of the applicant's failure to perform one or more of the improvements to the satisfaction of an engineer approved by the Town and Town Council. Notwithstanding the itemization of type and cost of improvements, any sum available pursuant to the bond may be used by the Town, and not released to the applicant, for any other improvement covered by the bond as well as the specified improvement.

The Town Council shall have authority to release to the applicant any funds held by the Town. The Town Council shall not release, prior to final acceptance, any amount(s) for each specified improvement in excess of eighty percent (80%) thereof. Before the Town Council shall release more than fifty nine percent (59%) of such amount related to any one or each separate improvement, the Town Council shall require that the applicant to certify in writing that no material-man's or mechanic's liens have been filed with respect to the required improvement(s).

After final acceptance of any public improvements by the Town Council, twenty percent (20%) of the amount pertaining to the particular public improvement shall be held for a minimum period of two (2) years. The said twenty (20%) percent shall be held to guarantee the materials and workmanship of the completed improvements.

The Town Council shall have the power to require payment of all amounts remaining in the bond, upon certification by an engineer approved by the Town that the applicant has failed to comply with an obligation to install the required public improvements in a manner satisfactory to an engineer approved by the Town, or that the applicant is in default, whether the two (2) year guarantee period has elapsed or not. Any such funds shall be segregated by the Town Treasurer in a special account and expended for the purposes set forth in the public improvements contract entered into by the applicant. Should an emergency arise, the Town may, after providing the applicant with a fourteen (14) day notice period, complete the required improvement(s), and be compensated from all bond amounts plus fifteen percent (15%) to recover overhead and other costs incurred by the Town to complete the required improvements.

Section 700-5. Subdivision Construction and Improvement Inspections.

An engineer approved by the Town shall inspect, or cause to be inspected, all public improvements and facilities, including but not limited to all water supply and sewage disposal systems in the course of construction, all streets and roads, all drainage and flood control facilities, all fire hydrants, and all other subdivision improvements and facilities. Excavations for fire hydrants and water and sewer mains and laterals, drainage and flood control facilities shall not be covered or backfilled until such installations have been approved by an engineer approved by the Town. If any such installation is covered before being inspected, it shall be uncovered after notice to uncover has been issued to the responsible person by an engineer approved by the Town.

SECTION 800. VACATING OR AMENDING A RECORDED SUBDIVISION PLAT, OR STREET OR ALLEY.

Section 800-1. Amendment to Recorded Plats.

The Boulder Town Council may vacate or amend a recorded subdivision plat or any portion of a recorded subdivision plat by following and complying with all the requirements for vacating or changing a subdivision plat, as identified at §10-9a-608, Utah Code Annotated, 1953, as amended and §10-9a-609, Utah Code Annotated, 1953, as amended.

Section 800-2. Vacating or Altering a Street or Alley.

Boulder Town may vacate or alter a street or alley by following and complying with all the requirements for vacating or altering a street or alley, as identified at §10-9a-609.5, Utah Code Annotated, 1953, as amended.

Section 800-3. Appeal of Plat Amendment Decisions.

An aggrieved party may appeal the decision of the Town Council concerning a plat amendment to district court, as provided by Chapter 18 of the Boulder Town Zoning Ordinance.

SECTION 900. NOTICING.

Section 900-1. Purpose.

As required by the Act, the Town is required to provide notice of all public hearings and public meetings for adoption or modification of this Subdivision Ordinance, and at times when preliminary subdivision applications, final subdivision applications, applications for amendment to a recorded subdivision, or application to vacate, alter, or amend a street or alley are considered by the Commission or Council. The notice requirements of the Town for public hearings and public meetings, and required applicant notice regarding subdivision matters are provided by this Section.

Section 900-2. Notice Required by the Act for Public Hearings and Public Meetings to Consider the Adoption or any Modifications of this Ordinance, and Notice of Final Action.

1. Public Hearings. The Town Clerk for public hearings before the Council and the Planning Commission Secretary before the Commission shall provide notice of the public hearing to consider the adoption or any modification of this Ordinance as follows:
 - a. Notice of the date, time, and place of each public hearing, at least ten (10) calendar days before the public hearing, which notice shall be:
 - i) Mailed to each "Affected Entity," as defined herein.
 - ii) Posted in at least three (3) public locations within the Town, or posted on the official website of Boulder Town.
 - iii) Published in a newspaper of general circulation within the Town.
 - b. Notify each Applicant of the date, time, and place of each public hearing at least ten (10) calendar days before the public hearing.
 - c. Provide to each Applicant a copy of each Staff Report regarding the Application at least three (3) business days before the public hearing.
2. Public Meetings. The Town Clerk for public meetings before the Council and the Planning Commission Secretary before the Commission shall provide notice of the public meeting to consider the adoption or any modification of this Ordinance as follows:
 - a. Notice of the date, time, and place of each public meeting, at least twenty-four (24) hours before the public meeting, which notice shall be:

- i) Posted in at least three (3) public locations within the Town, or posted on the official website of Boulder Town.
 - b. Notify each Applicant of the date, time, and place of each public meeting, at least twenty-four (24) hours before the public meeting.
 - c. Provide to each Applicant a copy of each Staff Report regarding the Application at least three (3) business days before the public meeting.
3. Notice of Final Action. The Town Clerk shall notify the Applicant of any final action taken by the Council for any application related to the adoption of any modification of this Ordinance.

Section 900-3. Notice Required by the Act for Public Hearings and Public Meetings to Consider a Preliminary Subdivision Application and Notice of Final Action.

1. Public Hearings. The Planning Commission Secretary for public hearings before the Commission shall provide notice of the public hearing to consider a Preliminary Subdivision Application as follows:
 - a. Notice of the date, time, and place of the public hearing, at least ten (10) calendar days before the public hearing, which notice shall be:
 - i) Mailed to each “Affected Entity,” as defined herein.
 - ii) Posted in at least three (3) public locations within the Town, or posted on the official website of Boulder Town.
 - iii) Published in a newspaper of general circulation within the Town.
 - iv) Sent by United States mail to all owners of record of real property within three-hundred (300) feet of the subject property proposed for Preliminary Subdivision Application approval.
 - b. Notify each Applicant of the date, time, and place of each public hearing, at least ten (10) calendar days before the public hearing.
 - c. Provide to each Applicant a copy of each Staff Report regarding the Application at least three (3) business days before the public hearing.

2. **Public Meetings.** The Town Clerk for public meetings before the Council and the Planning Commission Secretary before the Commission shall provide notice of the public meeting to consider a Preliminary Subdivision Application as follows:
 - a. Notice of the date, time, and place of each public meeting, at least twenty-four (24) hours before the public meeting, which notice shall be:
 - i) Posted in at least three (3) public locations within the Town, or posted on the official website of Boulder Town.
 - b. Notify each Applicant of the date, time, and place of each public meeting, at least twenty-four (24) hours before the public meeting.
 - c. Provide to each Applicant a copy of each Staff Report regarding the Application at least three (3) business days before the public meeting.
3. **Notice of Final Action.** The Town Clerk shall notify the Applicant of any final action taken by the Council for any Preliminary Subdivision Application.

Section 900-4. Notice Required by the Act for Public Meetings to Consider a Final Subdivision Application and Notice of Final Action.

1. **Public Meetings.** The Town Clerk for public meetings before the Council shall provide notice of the public meeting to consider a Final Subdivision Application as follows:
 - a. Notice of the date, time, and place of each public meeting, at least twenty-four (24) hours before the public meeting, which notice shall be:
 - i) Posted in at least three (3) public locations within the Town, or posted on the official website of Boulder Town.
 - b. Notify each Applicant of the date, time, and place of each public meeting, at least twenty-four (24) hours before the public meeting.
 - c. Provide to each Applicant a copy of each Staff Report regarding the Application at least three (3) business days before the public meeting.
2. **Notice of Final Action.** The Town Clerk shall notify the Applicant of any final action taken by the Council for any Final Subdivision Application.

CHAPTER 1000. CLUSTER SUBDIVISIONS – OPTIONAL PROVISION.

Section 1000-1. Purpose.

This provision is provided as an alternative subdivision layout option to encourage the preservation and protection of open space and scenic, historic, and sensitive lands located within the Town. This subdivision layout option is designed to promote efficiencies in the delivery of required infrastructure, facilities, and services in subdivision development. The Cluster Subdivision also provides an opportunity to promote the desired goals and policies to enhance the community character of Boulder Town.

Section 1000-2. Authority.

Consistent with the other provisions of this Ordinance, the Town Council is identified as the Town's Land Use Authority to approve, approve with subdivision requirements, or deny all Subdivision Applications proposed as a Cluster Subdivision, following the receipt of a Planning Commission recommendation.

Section 1000-3. Cluster Subdivisions Allowed in certain Zoning Districts.

A Cluster Subdivision may be allowed in the Town's Greenbelt Multiple Use Zoning District (GMU), Low Density Residential District (LDR), Medium Density Residential District (MDR), and High Density Residential District (HDR), upon a finding by the Town Council of compliance with all requirements of this Ordinance and the Town's other Land Use Ordinances.

Section 1000-4. Minimum Open Space.

A Cluster Subdivision shall provide for a minimum of fifty percent (50 %) of the total acreage of the subdivision site as open space in accordance with the open space standards, maintenance, and dedication requirements provided by this Section. As practicable, the open space lands within a Cluster Subdivision shall be contiguous and shall provide connectivity to other open space areas.

Section 1000-5. Cluster Subdivision Application and Approval Process.

A Cluster Subdivision Application shall be made as a Preliminary Subdivision Application and a Final Subdivision Application, and is subject to review process and approval standards as provided by this Ordinance for a Preliminary and Final Subdivision Application.

Section 1000-6. General Requirements.

1. **Lot Area.** The number of residential lots allowed in a Cluster Subdivision shall comply with and be consistent with the density requirements of the Zoning District in which the subdivision is located. In order to achieve the effect of clustering and provide desirable open

space, the minimum lot area within a Cluster Subdivision may be smaller than the minimum size required in the Zoning District, as approved by the Town Council, except no lot shall be less than fifty percent (50%) of the minimum lot size required by the Zoning District, as applicable.

2. **Lot Width and Frontage.** The minimum lot width and minimum lot frontage provided for each lot located within a Cluster Subdivision may be reduced from the minimum lot width and frontage requirements of the Zoning District, as approved by the Town Council, except no lot width or lot frontage shall be less than fifty percent (50%) of the minimum lot width or lot frontage required by the Zoning District, as applicable.
3. **Yard Requirements.** The minimum front yard, minimum side yard and minimum rear yard requirements provided for each lot located within a Cluster Subdivision may be reduced from the minimum front yard, minimum side yard and minimum rear yard requirements of the Zoning District, as approved by the Town Council, except no minimum front yard, minimum side yard, or minimum rear yard requirement shall be less than fifty percent (50%) of the minimum front yard, minimum side yard, or minimum rear yard required by the Zoning District, as applicable.

Section 1000-7. Open Space Dedication, Ownership, and Maintenance.

1. **Open Space Preservation and Protection.** All open space areas provided in a Cluster Subdivision shall be identified as a “lot” and shall be identified as permanently restricted from any future development by a plat note, conservation easement or other method of long-term protection and preservation acceptable to the Town Council. Open space protection and preservation methods shall be approved by the Town Council and recorded concurrent with the recording of the Final Subdivision Plat. All conservation easements shall comply with the Utah Conservation Easement Act, as set forth in §57-18, et seq., Utah Code Annotated, 1953, as amended.
2. **Ownership of Open Space.** The ownership of any open space areas shall be in a single ownership and may be owned and maintained by one of the following entities: homeowners’ association, land trust, conservation organization, governmental agency, or private individual, as approved by the Town Council.
3. **Maintenance of Open Space.** The responsibility and cost of maintaining open space shall be borne by the fee owner of the open space area unless otherwise agreed to by the Town Council. All Preliminary and Final Subdivision Applications proposing a Cluster Subdivision shall provide an Open Space Ownership and Maintenance Plan addressing the proposed ownership and permanent maintenance of the open space area within the Cluster Subdivision. The Open Space Ownership and Maintenance Plan shall be approved by the Town Council prior to or concurrent with Final Subdivision Application approval by the Town Council.

Boulder Town Subdivision Ordinance (Amended)
As Amended to 5/8/2008 by Ordinance #58

Any amendments to an approved Open Space Ownership and Maintenance Plan shall be approved by the Town Council.

Section 1000-8. Required Improvements and Guarantees.

All Preliminary and Final Subdivision Applications proposing a Cluster Subdivision shall comply with all Land Use Ordinances of the Town, including all on-site and off-site improvements and guarantee for the installation of subdivision improvements.

SECTION 1100. DEFINITIONS.

As used in this Ordinance, and consistent with the Act, the following terms shall have the meaning identified herein.

Affected Entity: A county, municipality, independent special district under Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B, Chapter 2, Local Districts, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, a property owner, a property owners' association, or the Utah Department of Transportation, if:

- a. The entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;
- b. The entity has filed with the municipality a copy of the entity's general or long-range plan; or
- c. The entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under this chapter.

Appeal Authority: The person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

Billboard: A freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

Charter School includes:

- a. An operating charter school;
- b. A charter school applicant that has its application approved by a chartering entity in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; and
- c. An entity who is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

Chief Executive Officer: The:

- a. Mayor in municipalities operating under all forms of municipal government except the council-manager form; or

- b. City manager in municipalities operating under the council-manager form of municipal government.

For the purposes of this Ordinance, the Mayor of Boulder Town is identified as the chief executive officer.

Conditional Use: A land use that, because of its unique characteristics or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

Constitutional Taking: A governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

- a. Fifth or Fourteenth Amendment of the Constitution of the United States; or
- b. Utah Constitution Article I, Section 22.

Culinary Water Authority: The department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property. The South West Utah Public Health Department and the Utah Department of Environmental Quality, as applicable, are hereby identified as the Culinary Water Authorities for Boulder Town.

Disability: A physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment. "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

Elderly Person: A person who is 60 years old or older, who desires or needs to live with other elderly persons in a group setting, but who is capable of living independently.

General Plan: A document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality.

Identical Plans: Building plans submitted to a municipality that are substantially identical to building plans that were previously submitted to and reviewed and approved by the municipality and describe a building that is:

- a. Located on land zoned the same as the land on which the building described in the previously approved plans is located; and

- b. Subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans.

Land Use Application: An application required by a municipality's land use ordinance.

Land Use Authority: A person, board, commission, agency, or other body designated by the local legislative body to act upon a land use application.

Land Use Ordinance: A planning, zoning, development, or subdivision ordinance of the municipality, but does not include the general plan.

Land Use Permit: A permit issued by a land use authority.

Legislative Body: The Boulder Town Council.

Lot Line Adjustment: The relocation of the property boundary line in a subdivision between two adjoining lots with the consent of the owners of record.

Moderate Income Housing: Housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.

Nominal Fee: A fee that reasonably reimburses a municipality only for time spent and expenses incurred in:

- a. Verifying that building plans are identical plans; and
- b. Reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

Noncomplying Structure: A structure that:

- a. Legally existed before its current land use designation; and
- b. Because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.

Nonconforming Use: A use of land that:

- a. Legally existed before its current land use designation;
- b. Has been maintained continuously since the time the land use ordinance governing the land changed; and
- c. Because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

Official Map: A map drawn by municipal authorities and recorded in a county recorder's office that:

- a. The map shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;
- b. The map provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and
- c. The map has been adopted as an element of the municipality's general plan.

Person: An individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

Plan for Moderate Income Housing: A written document adopted by a city legislative body that includes: an estimate of the existing supply of moderate income housing located within the city;

- a. An estimate of the need for moderate income housing in the city for the next five years as revised biennially;
- b. A survey of total residential land use;
- c. An evaluation of how existing land uses and zones affect opportunities for moderate income housing; and
- d. A description of the city's program to encourage an adequate supply of moderate income housing.

Plat: A map or other graphical representation of lands being laid out and prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.

Public Hearing: A hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

Public Meeting: A meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

Record of Survey Map: A map of a survey of land prepared in accordance with Section 17-23-17.

Residential Facility for Elderly Persons: A single-family or multiple-family dwelling unit that meets the requirements of Section 10-9a-516, but does not include a health care facility as defined by Section 26-21-2.

Residential Facility for Persons with a Disability: A residence:

- a. In which more than one person with a disability resides; and
 - (i) is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or
 - (ii) is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

Sanitary Sewer Authority: The department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems. The South West Utah Public Health Department and the Utah Department of Environmental Quality, as applicable, are hereby identified as the Sanitary Sewer Authorities for Boulder Town.

Special District: An entity established under the authority of Title 17A, Special Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or unit of the state.

Specified Public Utility: An electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

Street: A public right-of-way, including a highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way.

Subdivision: Any land that is divided, resubdivided or proposed to be divided into two (2) or more lots, plots, parcels, sites, units, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions. Subdivision includes the division or development of land whether by deed, metes and bounds description, devise and testacy, lease, map, plat, or other recorded instrument.

Unincorporated: The area outside of the incorporated area of a city or town.

Zoning Map: A map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.