

# **BOULDER TOWN, UTAH**

## **BOULDER TOWN ZONING ORDINANCE (AS AMENDED)**

**Amended by Ordinance No. 59 on May 8, 2008**  
**Ordinance originally Adopted by Ordinance No. 46 (August 28, 2001)**  
**Boulder Town Sign Ordinance incorporated by Ordinance 21D (January 7, 2004)**

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*As Amended to 5/8/2008 by Ordinance #59*

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**CHAPTER 1**  
**TITLE, PURPOSE, DECLARATION OF INTENT AND EFFECTIVE DATE**

**Section 101 Short Title:**

This Ordinance shall be known and may be referred to as the Boulder Town Zoning Ordinance. The Boulder Town Zoning Ordinance may, in subsequent Chapters and Sections, be referred to as “Ordinance,” “the Ordinance,” “this Ordinance,” “Zoning Ordinance,” or “Land Use Ordinance.”

**Section 102 Authority:**

The Town Council of Boulder Town, Utah, adopts this Ordinance pursuant to The Municipal Land Use, Development, and Management Act (hereinafter “the Act”), as provided at §10-9a *et seq.* Utah Code Annotated, 1953, as amended, and all other authorities and provisions of Utah and Federal statutory and common law as applicable. This Ordinance constitutes a Land Use Ordinance of Boulder Town as authorized by the Act.

**Section 103 Declaration:**

This Ordinance provides for the establishment of Zoning Districts, with associated use requirements and development standards, for the guidance, management, and regulation of all land uses, buildings and structures, and related activities occurring within the municipal boundaries of Boulder Town, Utah (hereinafter “the Town”). This Ordinance is declared to be consistent with and to meet the requirements of the Act.

**Section 104 Purpose:**

The purpose of this Ordinance is to implement the goals and policies of the Boulder Town General Plan and the other purposes as provided for by the Act. It is the intent of this Ordinance to provide a means of ensuring predictability and consistency in the use and development of lands located within the Town.

These purposes are met by:

1. Providing for the implementation of the Boulder Town General Plan;
2. Guiding growth and development in an orderly manner consistent with the land use and environmental goals and policies of the Town;
3. Preserving the quiet rural and agricultural quality of life enjoyed by residents and protecting farming and ranching as a life-style choice for residents;



4. Preserving the natural beauty and resources, including open space, clean air and water;
5. Providing opportunities for the establishment of appropriate commercial activities to meet the needs of Town residents and others;
6. Preventing the overcrowding of land;
7. Generally directing that the more intense development be located in areas where services and facilities are available and sufficient to meet the demands of the proposed development;
8. Preventing damage and injury from disasters such as fire, flood, geologic and seismic hazards and other dangers;
9. Directing and managing the type, distribution and intensity of uses and activity;
10. Encouraging pride in the appearance and quality of the Town and providing necessary public facilities and amenities;
11. Protecting all landowners from potential adverse impacts from adjoining uses; and
12. Securing economy and efficiency in the allocation and expenditure of public funds.

**Section 105 Applicability:**

1. Applications accepted by the Town as complete for any land use approval, permit or license required by the provisions of this Ordinance shall be processed, reviewed and approved or denied, subject to the provisions of this Ordinance and all other applicable Ordinances of the Town in effect at the time the application is accepted as complete by the Town, as required by Section 507 and Section 508 of this Ordinance.
2. No building or structure shall be erected and no existing building or structure shall be moved, altered or enlarged nor shall any land, building, structure, or premises be used, designed or intended to be used for any purpose or in any manner other than as allowed by this Ordinance.
3. The provisions of this Ordinance shall apply to all lands located within the municipal boundaries of the Town, as indicated on the Boulder Town Zoning Districts Map, as attached hereto, and incorporated herein by reference, unless exempted by the provisions of this Ordinance, or other lawful exemption.
4. The provisions of this Ordinance shall be held to be the minimum standards and requirements necessary to protect the public health, safety, and welfare of the citizens of the Town and to achieve the purposes of this Ordinance and the Act.

5. This Ordinance shall not nullify any law, ordinance, or agreements which are more restrictive, but shall prevail notwithstanding such provisions which are less restrictive.

**Section 106 Permits and Licenses to Conform to this Ordinance:**

All Land Use Authorities of the Town with the authority to issue approvals, permits or licenses required by this Ordinance shall require that such approvals, permits, or licenses conform to the provisions of this Ordinance and the Town's other Land Use Ordinances, as may be applicable, and in effect when a Land Use Application is determined to be complete and all fees have been paid, unless:

1. The Land Use Authority, on the record, finds that a compelling, countervailing public interest would be jeopardized by approving the Application; or
2. In the manner provided by this Ordinance and before the Application is submitted, the Town has formally initiated proceedings to amend its Land Use Ordinances in a manner that would prohibit approval of the Application as submitted.
3. The Town shall process an Application without regard to proceedings initiated to amend the Town's Land Use Ordinances if:
  - a) One hundred and eighty (180) calendar days have passed since the proceedings were initiated; and
  - b) The proceedings have not resulted in an enactment that prohibits approval of the Application, as submitted.
4. If the Land Use Application conforms fully to the requirements of this Ordinance and the Town's other Land Use Ordinances, including the Zoning Ordinance, the Land Use Application shall be approved.
5. The Town shall not impose on an Applicant, or any holder of any approval required by this Ordinance, any requirement that is not expressed:
  - a) In the approval required by this Ordinance, or in documents on which such approval is based; or
  - b) In this Ordinance, or in the Town's other Land Use Ordinances, including the Subdivision Ordinance.
6. The Town shall not withhold the issuance of a Certificate of Occupancy because of an Applicant's failure to comply with a requirement that is not expressed:

- a) In the Building Permit, or in documents on which the Building Permit is based; or
  - b) In this Ordinance, or the Town's other Land Use Ordinances, including the Subdivision Ordinance.
7. The Town shall be bound by the terms and standards of this Ordinance and the Town's other Land Use Ordinances, as applicable, and shall comply with all mandatory requirements and provisions of such Ordinances.
8. The Town shall process and render a decision on each Application required by this Ordinance with reasonable diligence.

**Section 107 Town Imposed Requirements and Exactions on Application Approval:**

The Town shall not impose any requirement(s) or exaction(s) on any approval required by this Ordinance unless:

- 1. An essential link exists between a legitimate governmental interest and each requirement or exaction; and
- 2. Each requirement or exaction is roughly proportionate, in both nature and extent, to the impact of the proposed subdivision.

**Section 108 Effective Date:**

This Ordinance shall take effect on July 1, 2008 following its adoption by the Boulder Town Council.

**Section 109 Omissions not a Waiver:**

An omission to specify or enumerate in this Ordinance those provisions of general law applicable to all Utah municipalities shall not be construed to be a waiver of the benefits of any such provisions.

**Section 110 Repealer and Effect:**

Upon its adoption by the Boulder Town Council, and upon its effective date, this Ordinance shall amend the Town's Zoning Ordinance existing on the effective date of this Ordinance and shall govern and apply to the use of all lands, buildings, structures, and activities located within the municipal boundaries of the Town.

*Boulder Town Zoning Ordinance (Amended)*  
*As Amended to 5/8/2008 by Ordinance #59*

The provisions of this Ordinance shall be construed to carry out the purposes of this Ordinance and the purposes of the State of Utah enabling laws, including the Act, and to avoid conflict with the laws of the United States of America, the State of Utah, or any other limitations imposed by law. If any chapter, section, subsection, provision, sentence or clause of this Ordinance is declared unconstitutional by a court of competent jurisdiction, such determination shall not impair the validity of the remainder of this Ordinance, which shall remain in effect.

## **CHAPTER 2 INTERPRETATION OF REQUIREMENTS AND PROVISIONS**

### **Section 201 Interpretation:**

In the interpretation of this Ordinance, all provisions shall be:

1. Liberally construed in favor of Boulder Town; and
2. Deemed neither to limit or repeal any other powers granted under State statutes.

The following rules shall be observed in the application and interpretation of the provisions of this Ordinance, except where the context clearly requires otherwise:

1. The word “shall” or “must” are mandatory. The words “should” and “may” are permissive.
2. Words used or defined in one tense or form shall include other tenses or derivative forms.
3. Words used in the singular shall include the plural; words used in the plural shall include the singular.
4. Words referencing a gender shall extend and be applied to the other gender and shall be considered gender neutral.
5. In the event of a conflict between the text of this Ordinance and any illustrations, captions, figures, or other material, the text of this Ordinance shall control.
6. The word “includes” shall not limit a term to the specified examples, but is intended to provide guidance.

### **Section 202 Administrative Interpretations:**

1. **Purpose.** To promote day-to-day efficiencies in the administration and implementation of this Ordinance, and where ambiguity, conflicting provisions, or confusion may exist in any standard or requirement of this Ordinance, this Section is provided to allow the Zoning Administrator to make interpretations of this Ordinance, on an as-required basis, guided by the purposes of this Ordinance and the Act, applied to the specific circumstance.
2. **Authority.** The Zoning Administrator is authorized to render interpretations of this Ordinance.

3. **Initiation.** Any person may request an administrative interpretation of a standard or requirement of this Ordinance by presenting an Application for an Administrative Interpretation.
4. **Procedure.** An Application for an Administrative Interpretation shall be considered and processed as follows:
  - a) A complete Administrative Interpretation Application shall be submitted to the Town Clerk.
  - b) After the Application is determined complete by the Town Clerk, the Zoning Administrator shall review the Application and shall make an interpretation in accordance with the standards set forth in this Chapter.
  - c) After making a decision, the Zoning Administrator shall provide written notice of the administrative interpretation to the applicant. A record of the administrative interpretation of the Zoning Administrator shall be maintained in the office of the Town Clerk.
5. **Standards for Making Administrative Interpretations.** The Zoning Administrator shall apply the following standards in making an administrative interpretation:
  - a) The administrative interpretation shall not have the effect of adding or removing any standard or requirement of this Ordinance.
  - b) An administrative interpretation shall be consistent with the purposes of this Ordinance and the Act and any previously rendered administrative interpretations, based on similar facts.
  - c) An administrative interpretation concerning a use interpretation shall not allow the establishment of a use that is substantially different from an allowed use or is a prohibited use in the Zoning District.
  - d) No use interpretation shall permit the establishment of any use that would be inconsistent with the purposes of the Zoning District in which it would be located.
6. **Effect of Interpretation.** An administrative interpretation shall apply only to the property for which an interpretation is given. A use interpretation finding a use to be an allowed use shall not authorize the establishment of such use, but merely authorizes the filing of the Land Use Application necessary for any approvals, permits, or licenses, as may be required by this Ordinance.

7. **Appeal.** Any person adversely affected by an administrative interpretation rendered by the Zoning Administrator may appeal the decision to the Boulder Town Planning Commission, as provided herein.

### **Section 203 Authority and Rules for Interpretation of Zoning District Boundaries:**

1. **Authority.** In the event of the need to determine the boundary of a Zoning District, the Zoning Administrator shall have the authority and jurisdiction to render a written determination of the boundary of a Zoning District.
2. **Initiation.** Any person may request an interpretation of a Zoning District boundary by presenting an Application for an Interpretation of a Zoning District Boundary.
3. **Procedure.** An Application for an Interpretation of a Zoning District Boundary shall be considered and processed as follows:
  - a) A complete Interpretation of a Zoning District Boundary Application shall be submitted to the Town Clerk.
  - b) After an Application is determined to be complete by the Town Clerk, the Zoning Administrator shall review the application and make an interpretation in accordance with the standards set forth in this Chapter.
  - c) After making a decision, the Zoning Administrator shall provide written notice of the boundary interpretation to the applicant. A record of the zoning district boundary interpretation of the Zoning Administrator shall be maintained in the office of the Town Clerk.
4. **Standards for Making Zoning District Boundary Administrative Interpretations.** The Zoning Administrator shall apply the following standards in making an interpretation of a Zoning District boundary:
  - a) The standards and requirements applying to such Zoning District.
  - b) In areas divided into lots, a Zoning District boundary shall follow the boundary of a lot, unless clearly intended to divide a lot for reasons of topography, landform, or other physical constraints.
  - c) In areas not subdivided into lots, wherever a Zoning District is indicated as a strip adjacent to and paralleling a right-of-way, the depth of such strips shall be in accordance with dimensions measured at right angles from the center line of the right-of-way, and the length of frontage shall be in accordance with dimensions measured from section, quarter section, or division lines, or center lines of rights-of-way, unless otherwise indicated.

- d) Where a Zoning District boundary follows a natural or man-made feature, such boundary shall be deemed to be the centerline of such natural or man-made feature.
  - e) Where a Zoning District boundary follows the right-of-way of any road, street, trail, or other public or private right-of-way or easement, such boundary shall be deemed to be the center line of such road, street, trail, or other public or private right-of-way or easement.
5. **Effect of Interpretation.** A Zoning District boundary interpretation shall apply only to the property for which an interpretation is given. A Zoning District boundary interpretation shall not authorize the establishment of any use, but merely authorizes the filing of the Land Use Application necessary for any approvals, permits, or licenses, as may be required by this Ordinance.
6. **Appeal.** Any person adversely affected by a Zoning District boundary interpretation rendered by the Zoning Administrator may appeal the decision to the Boulder Town Planning Commission, as provided herein.



### **CHAPTER 3 LAND USE AUTHORITIES AND DECISION MAKING**

#### **Section 301 Land Use Authorities Provided:**

The Land Use Authorities identified by this Ordinance shall have responsibilities for administering this Ordinance and all other Land Use Ordinances, as allowed by the Act and as provided herein.

#### **Section 302 Boulder Town Council:**

1. **Powers and Duties.** For purposes of this Ordinance, the Boulder Town Council (hereinafter “Council”) shall:
  - a) Adopt the Boulder Town General Plan, all elements thereof, and all amendments thereto.
  - b) Adopt all Town Land Use Ordinances, including this Ordinance, all provisions and requirements thereof, and all amendments thereto.
  - c) Direct the Boulder Town Planning Commission to prepare the General Plan, any proposed plan element, any amendments thereto, and to submit such proposed plan, element, or amendments to the Council.
  - d) Direct the Boulder Town Planning Commission to prepare all Land Use Ordinances, including this Ordinance, Zoning Districts Maps, Official Maps, and all amendments thereto, and to submit such Land Use Ordinances and Maps, or amendments thereto, to the Council.
  - e) Act as an Appeals Authority, as provided by herein.
  - f) Render, or appoint a designee to render, a determination when an applicant asserts a deprivation of property rights, or has been subject to a taking of property without just compensation, or has asserted some other constitutional invalidity, as provided herein.
  - g) Establish a fee schedule for all approvals, permits, and licenses required by the Town’s Land Use Ordinances, including this Ordinance.
  - h) Take such other action(s) as authorized by this Ordinance or the Act and not expressly delegated to another Land Use Authority.
2. **Effective Date of Decisions.** All decisions of the Council made under the authority of this Ordinance shall take effect on the date of the meeting when the decision is made, unless a

different date is designated in the rules of the Council, or a different date is designated by the Council at the time the decision is made.

3. **Council Meeting Minutes.** The approved minutes of Council meetings, attested to by a majority vote of the Council, shall constitute the official record of such meetings, and shall be filed in the Office of the Town Clerk. All such records shall be available for public review and access in accordance with the laws of the State of Utah.

### **Section 303 Boulder Town Planning Commission:**

The Boulder Town Planning Commission (hereinafter “Commission”) was heretofore created and established pursuant to the Act, or prior enactments thereof.

1. **Powers and Duties.** The Commission shall be an advisory body to the Council on legislative matters, including the General Plan and Land Use Ordinances. The Commission shall:
  - a) Prepare, or cause to be prepared, the General Plan, all elements thereof, and all amendments thereto, and to submit such plan, elements, or amendments to the Council.
  - b) Prepare or cause to be prepared all Land Use Ordinances, including this Ordinance, all standards, and requirements thereof, and all amendments thereto, and to submit such ordinances, standards, requirements, and all amendments to the Council.
  - c) Prepare or cause to be prepared all Official Maps, all standards and requirements thereof, and all amendments thereto, and to submit such maps, standards, requirements, and all amendments to the Council.
  - d) Review and recommend approval or denial of all General Plan Amendment Applications and all Land Use Ordinance Amendment Applications to the Council.
  - e) Review and approve, approve with conditions, or deny all Conditional Use Applications.
  - f) Review and recommend approval, approval with requirements, or denial of all Subdivision Applications to the Council, as authorized by the Subdivision Ordinance.
  - g) Review and recommend approval, approval with requirements, or denial of all Petitions for Annexation to the Council.
  - h) Review and recommend approval, approval with requirements, or denial of all Applications to establish an Agricultural Protection Area.
  - i) Act as an Appeals Authority, as provided herein.

- j) Adopt bylaws, policies, and procedures for the conduct of the duties and meetings of the Commission, for the consideration of Applications, and for any other purposes deemed necessary by the Commission, if such bylaws, policies, and procedures are approved by the Council before taking effect.
  - k) Advise the Council on other matters, as the Council may direct.
2. **Qualifications for Membership.** Members of the Planning Commission shall be appointed by the Mayor with the advice and consent of the Council.
3. **Membership: Appointment, Removal, Terms, and Vacancies.**
- a) The Planning Commission shall be composed of five (5) members, appointed by the Mayor, with the advice and consent of the Council.
  - b) The Council, after finding cause, may remove any member of the Commission for a violation of this Ordinance or any policies or procedures adopted by the Commission following receipt of a written complaint filed against the member. The Council shall provide the member with a hearing, if requested.
  - c) Members of the Commission may be compensated on a per diem basis, based upon meetings actually attended and reasonable and necessary expenses, as determined by the Council.
  - d) All members of the Commission shall serve a term of five (5) years. No member shall serve more than two (2) consecutive terms.
  - e) At an annual organizational meeting to be held the first regular meeting in January, and at other times as required, the members of the Commission shall elect one (1) of their members as chair and one (1) of their members as vice-chair. In the absence of the chair, the vice-chair shall act as chair and shall have all powers of the chair. The chair shall serve a term of two (2) years. No member shall serve as chair for more than two (2) consecutive terms.
  - f) The chair, or in the chair's absence the vice-chair, shall be in charge of all proceedings before the Commission, and shall take such actions as necessary to preserve order and the integrity of all proceedings before the Commission.
4. **Recording Secretary.** The Council shall appoint a recording secretary to serve the Commission. The Recording Secretary shall keep the minutes of all proceedings of the Commission, which minutes shall be the official record of all proceedings before the Commission, attested to by a majority vote of the members of the Commission. The Recording Secretary shall be compensated as approved by the Council.

5. **Quorum and Necessary Vote.** No meeting of the Commission may be called to order, nor may any business be transacted without a quorum consisting of at least three (3) members of the Commission being present. The chair shall be included for purposes of establishing a quorum and shall act as a voting member of the Commission. All actions of the Commission shall require the vote of a majority of the total members of the Commission.
6. **Meetings, Hearings and Procedure.**
  - a) The Commission shall establish a regular meeting schedule.
  - b) Special meetings may be requested by the Council, the chair of the Commission, or a majority of the members of the Commission.
  - c) If a matter is postponed due to lack of a quorum, the chair shall reschedule the matter to the next available Commission meeting. The Recording Secretary shall notify all interested parties and all members of the Commission of the date when the rescheduled matter will be heard by the Commission
7. **Effective Date of Decisions.** All decisions of the Commission shall become effective on the date of the meeting when the decision is made unless a different date is designated in the rules of the Commission, or the Commission designates a different date when the decision is made.
8. **Commission Members Volunteers.** Members of the Commission shall be deemed “volunteers” for the purposes of Town Ordinances, rules, regulations, and policies concerning personnel provided, however, Commission members shall be included in the definition of "employee" for the purposes of the Utah Governmental Immunity Act.

### **Section 304 Board of Adjustment:**

The Boulder Town Board of Adjustment (hereinafter the “BOA”) was heretofore created and established pursuant to the Act, or prior enactments thereof.

1. **Powers and Duties.** The BOA shall:
  - a) Recommend to the Council and Commission amendments to the General Plan or any elements thereof, as the BOA considers necessary.
  - b) Recommend to the Council and Commission amendments to any Land Use Ordinance, including this Ordinance, and any amendments to any provision or requirements thereof, as the BOA considers necessary.

- c) Recommend to the Council and Commission amendments to any Official Maps, all provisions and requirements thereof, as the BOA considers necessary.
  - d) Review and approve, approve with requirements, or deny all Variance Applications, with a finding of an unreasonable hardship, as required by the Act, and as provided herein.
  - e) Render a decision on a determination of a legal nonconforming use, as provided herein.
  - f) Render a decision on a determination of a legal noncomplying structure, as provided herein.
  - g) Render a decision on any other legal nonconformity, as provided herein.
  - h) Adopt bylaws, policies, and procedures for the conduct of the duties and meetings of the BOA, for the consideration of Applications and for any other purposes deemed necessary by the BOA, provided that such bylaws, policies, and procedures shall be approved by the Council before taking effect.
2. **No Authority.** The BOA shall have no power, jurisdiction or authority to consider any of the following:
- a) To hear any amendments, waivers or modifications to any of the standards governing the approval of any General Plan Amendment Application or any Land Use Ordinance Amendment Application.
  - b) To hear any amendments, waivers, or modifications to the General Plan, any element, provision, or map thereof, or any provision or requirement of any Land Use Ordinance, including this Ordinance, any Zoning Districts Maps, and any Official Maps.
  - c) To make any decisions or determinations that would have the effect of authorizing a use which is not identified in the Tables of Uses, as provided herein.
  - d) To hear or decide any matter or Application not expressly identified by Section 304(1) herein.
3. **Qualifications for Membership.** Members of the BOA shall be appointed by the Mayor, with the advice and consent of the Council.
4. **Membership: Appointment, Removal, Terms, and Vacancies.**
- a) The BOA shall be composed of five (5) members.

- b) Members of the BOA may be compensated on a per diem basis, based upon meetings actually attended and reasonable and necessary expenses, as determined by the Council.
  - c) All members shall serve a term of five (5) years. No member shall serve more than two (2) consecutive terms.
  - d) The Council, after finding cause, may remove any member of the BOA for violation of this Ordinance or any policies or procedures adopted by the BOA following receipt of a written complaint filed against the member. The Council shall provide the member with a hearing, if requested.
  - e) At an annual organizational meeting held the first regular meeting of the year, and at other times as required, the members of the BOA shall elect one (1) of their members as chair and one (1) of their members as vice-chair. In the absence of the chair, the vice-chair shall act as chair and shall have all powers of the chair. The chair and vice-chair shall serve a term of two (2) years. No member shall serve as chair for more than two (2) consecutive terms.
  - f) The chair, or in the chair's absence, the vice chair of the BOA shall be in charge of all proceedings before the BOA, and shall take such action as shall be necessary to preserve order and the integrity of all proceedings before the BOA.
5. **Recording Secretary.** The Council shall appoint a recording secretary to serve the BOA. The Recording Secretary shall keep the minutes of all proceedings of the BOA, which minutes shall be the official record of all proceedings before the BOA, attested to by a majority of the members of the BOA voting. The Recording Secretary shall be compensated as approved by the Council.
6. **Quorum and Necessary Vote.** No meeting of the BOA may be called to order, nor may any business be transacted, without a quorum consisting of at least three (3) members of the BOA being present. The chair shall be included for purposes of establishing a quorum and shall act as a voting member of the BOA. All actions of the BOA shall require the concurring vote of a majority of the total members of the BOA.
7. **Meetings, Hearings and Procedure.**
- a) Regular meetings of the BOA shall be held as required.
  - b) Special meetings may be requested by the Council, the chair of the BOA, or a majority of the members of the BOA.
  - c) If a matter is postponed due to lack of a quorum, the chair of the BOA shall reschedule the matter to the next available meeting. The recording secretary shall notify all interested

parties and all members of the BOA of the date when the rescheduled matter will be heard.

8. **Effective Date of Decisions.** All decisions of the BOA shall become effective on the date of the meeting when the decision is made unless a different date is designated in the rules of the BOA, or the BOA designates a different date when the decision is made.
9. **BOA Members Volunteers.** Members of the BOA shall be deemed “volunteers” for the purposes of Town Ordinances, rules, regulations, and policies concerning personnel, provided however, BOA members shall be included in the definition of "employee" for the purposes of the Utah Governmental Immunity Act.

### **Section 305 Zoning Administrator:**

The Council may designate a person to carry out the administrative responsibilities of this Ordinance and the Subdivision Ordinance. The person so designated is referred to herein as the “Zoning Administrator.”

1. **Powers and Duties.** The Zoning Administrator shall:
  - a) Ensure all procedures and provisions of the Town’s Land Use Ordinances, including this Ordinance, are consistently and equitably applied.
  - b) Approve, approve with requirements, or deny the following Applications:
    - i) All Temporary Use Applications.
    - ii) All Permitted Use Applications.
  - c) Render interpretations of the text of this Ordinance, as provided herein.
  - d) Render determinations of a Zoning District Boundary Application, as provided herein.
  - e) Carry out all other functions, duties, and actions as may be necessary to administer this Ordinance, and as may be identified herein.

### **Section 306 Support:**

The officers and staff of the Town may provide support and assistance to the Council, Commission, and BOA as required to effectively implement the General Plan, this Ordinance, and the Subdivision Ordinance.

**Section 307 Meetings and Public Hearings:**

All meetings and hearings of all Land Use Authorities identified herein shall comply with the provisions of this Ordinance, and all other applicable Ordinances for such meetings and hearings and the requirements of the laws of the State of Utah for open and public meetings.

**Section 308 Provision of Administrative Guidelines:**

The Council may provide guidelines, standards, reference materials, forms, or other documents to assist the Land Use Authorities, Applicants, and the public in the administration, implementation, and interpretation of all Land Use Ordinances, including this Ordinance.

**Section 309 Computation of Time:**

Unless specifically provided by the requirements of this Ordinance as otherwise, all times identified herein shall be computed using calendar days, except that if the last day is a Saturday, Sunday, or legal holiday, that day shall be excluded and time computed to the next regular business day following the Saturday, Sunday or legal holiday. The time within which an act is to be done shall be computed by excluding the first day and including the last day.

**Section 310 Fractional Numbers:**

In determining compliance with the numerical requirements of this Ordinance, any computation or measurement resulting in a fractional number, except density calculations, shall be rounded to the nearest whole number. Density calculations shall be rounded down to the nearest whole number.

**Section 311 Procedural Irregularities:**

1. Validity of Action. Notwithstanding any provision of this Ordinance which sets forth a procedure for any matter herein, no decision, action, inaction or recommendation regarding the matter which is the subject of the procedure shall be void or invalid or set aside by a court due to any error (including, but not limited to, any irregularity, informality, neglect or omission) which pertains to an Application, notice, decision, finding, record, hearing, report, recommendation or any other procedural matter whatsoever unless:
  - a) The procedure is required by State or Federal law; and
  - b) In an examination of the entire circumstances, including the evidence, the court is of the opinion that the procedural error complained of was prejudicial to a substantial right of the complainant as shown by the following:



- i) Had the error not occurred the decision made pursuant to the procedure would have been different; and
  - ii) Because of the error, the complainant suffered an injury for which relief must be given.
2. **Presumption of Validity.** The court shall presume that a decision or action taken pursuant to a procedure was done in good faith and shall not presume that an error is prejudicial, or that an injury occurred. The complainant shall have the burden of proof by a preponderance of the evidence to show that an error is prejudicial or that an injury occurred.

**Section 312 Determination of Completeness of Land Use Applications:**

As provided for by the Act, the Zoning Administrator shall determine a Land Use Application submitted and complete on the date when the Application is provided in a form that complies with the requirements of this Ordinance, as applicable, and all applicable Application fees have been paid.

**Section 313 Continuing Validity of Land Use Application Approvals:**

1. The validity of an approval of a Land Use Application shall terminate one hundred eighty (180) calendar days from the date of the approval by the Land Use Authority unless an alternative date is specifically provided by the applicable Land Use Ordinance, or the Applicant has proceeded within one hundred eighty (180) calendar days from the date of approval with reasonable diligence to implement the approval.
2. The validity of an approval of a Land Use Application shall expire and shall be invalid and null and void after one hundred eighty (180) calendar days from the date of approval by the Land Use Authority or after the expiration of the time provided by the alternative date, as provided by the applicable Land Use Ordinance.
3. An approval by a Land Use Authority shall be invalid and null and void if a use is conducted, or a building or structure is established in violation of any requirements of the Town's Land Use Ordinances, including this Ordinance.

**Section 314 Land Use Authority Compliance with Land Use Ordinances:**

Each Land Use Authority, as identified herein, shall comply with all terms and standards of all applicable Land Use Ordinances, including this Ordinance.

**Section 315 Land Use Approvals Required to Comply with Land Use Ordinances:**

The approval of any Land Use Application shall continue to comply with all requirements, conditions, terms and standards of approval, as required by the Land Use Authority, and shall continue to comply with the requirements of all Land Use Ordinances, including this Ordinance.

**Section 316 Acquiring Property:**

1. The Town may acquire property through purchase, gift, voluntary dedication, or eminent domain.
2. The Town may require the dedication and improvement of a street or other public facility, if the street or other facility is found necessary by the Town because of a Land Use Application approval.

**Section 317 Exactions:**

A Land Use Authority may impose an exaction, or exactions, on a Land Use Application if:

1. An essential link exists between a legitimate governmental interest and each exaction; and
2. Each exaction is roughly proportionate, both in nature and in extent, to the impact of the proposed development.

**CHAPTER 4  
AMENDMENTS TO THE BOULDER TOWN GENERAL PLAN  
AND ZONING ORDINANCE**

**Section 401 Amendments to Boulder Town General Plan:**

1. A proposed amendment to the Boulder Town General Plan may be initiated by any property owner, any person resident of the Town, any business owner, the Council, Commission, or BOA by filing an application for a General Plan amendment.
2. Application. An application for an amendment to the General Plan may be filed with the Town on the applicable application form.

**Section 402 Procedures for Amending the Boulder Town General Plan:**

1. **Commission Public Hearing Required.** Prior to recommending the adoption, rejection or revision of any General Plan amendment, the Commission shall hold a public hearing in accordance with the procedures of this Ordinance and the Act.
2. **Commission Recommendation Transmitted to Council.** After the Commission has reviewed the application and made its recommendation, the Commission shall transmit to the Council a copy of the Commission's recommendation and the transcripts and/or minutes, and all other relevant materials of the proceedings before the Commission. Following receipt of a copy of the General Plan amendment recommendation from the Commission, and all other materials, the Council shall schedule a public hearing to consider the Commission recommendation for the proposed General Plan amendment.
3. **Council Public Hearing Required.** The Council shall consider the General Plan amendment recommendation of the Commission at a public hearing pursuant to the procedures established by this Ordinance and the Act.
4. **Council Action.** Following the public hearing, the Council may approve the amendment, revise the proposed amendment and approve the proposed amendment as revised, or reject the proposed amendment. If the Council approves the proposed amendment as submitted or as revised, the Council shall adopt the General Plan amendment by ordinance.

**Section 403 Criteria for Approval of General Plan Amendments:**

In considering a proposed amendment to the Boulder Town General Plan, the application shall identify, and the Commission and Council shall consider the following factors, among others:

1. The effect of the proposed amendment on the character of the surrounding area;

2. Compatibility of the proposed uses with nearby and adjoining properties;
3. The suitability of the properties for the uses requested;
4. The effect of the proposed amendment on the existing goals, objectives and policies of the General Plan, and listing any revisions to this Ordinance, the Subdivision Ordinance, and any other Ordinances required to implement the amendment; and
5. The community benefit of the proposed amendment.

**Section 404 Effect of General Plan Amendment - Consistency Required:**

A General Plan amendment shall not authorize the development of land. After a General Plan amendment has been approved by the Council, no development shall occur until the required permits and licenses have been issued by the Town consistent with the applicable provisions of this Ordinance, the Subdivision Ordinance, the Building Codes, as adopted by the Town, and all other Ordinances.

**Section 405 Amendments to the Zoning Ordinance, including the Zoning Districts Map:**

1. **Application.** A proposed amendment to this Ordinance, including the Zoning Districts Map, may be initiated by any property owner, any person residing in the Town, any business owner, the Council, Commission, or BOA by filing an application for a Zoning Ordinance amendment.
2. **Submission.** An application for an amendment to the Zoning Ordinance, including the Zoning Districts Map, shall be filed with the Town on the applicable application form.

**Section 406 Procedures for Amending the Zoning Ordinance and Zoning Districts Map Amendments (Rezoning):**

1. **Commission Public Hearing Required.** Prior to recommending the adoption, rejection or revision of any Zoning Ordinance Amendment, including Zoning Map amendments (rezoning), the Commission shall hold a public hearing in accordance with the procedures of this Ordinance and the Act.
2. **Commission Recommendation.** At a regular meeting, the Commission shall consider and formulate a recommendation to the Council on the proposed Zoning Ordinance Amendment, including Zoning Map amendments (rezoning).
3. **Commission Recommendation Transmitted to Council.** After the Commission has reviewed the application and made its recommendation, the Commission shall transmit to the

Council a copy of the Commission's recommendation and the transcripts and/or minutes, and all other relevant materials of the proceedings before the Commission. Following receipt of a copy of the Zoning Ordinance amendment or Zoning Map amendment recommendation from the Commission, and all other materials, the Council shall schedule a public hearing to consider the Commission recommendation for the proposed amendment.

4. **Council Public Hearing Required.** The Council shall consider Zoning Ordinance and Zoning Map amendment recommendations of the Commission at a public hearing pursuant to the procedures established by this Ordinance and the Act.
5. **Council Action.** Following the public hearing, the Council may approve the amendment, revise the proposed amendment and approve the proposed amendment as revised, or reject the proposed amendment. If the Council approves the proposed amendment as submitted or as revised, the Council shall adopt the Zoning Ordinance and Zoning Map amendment by ordinance.

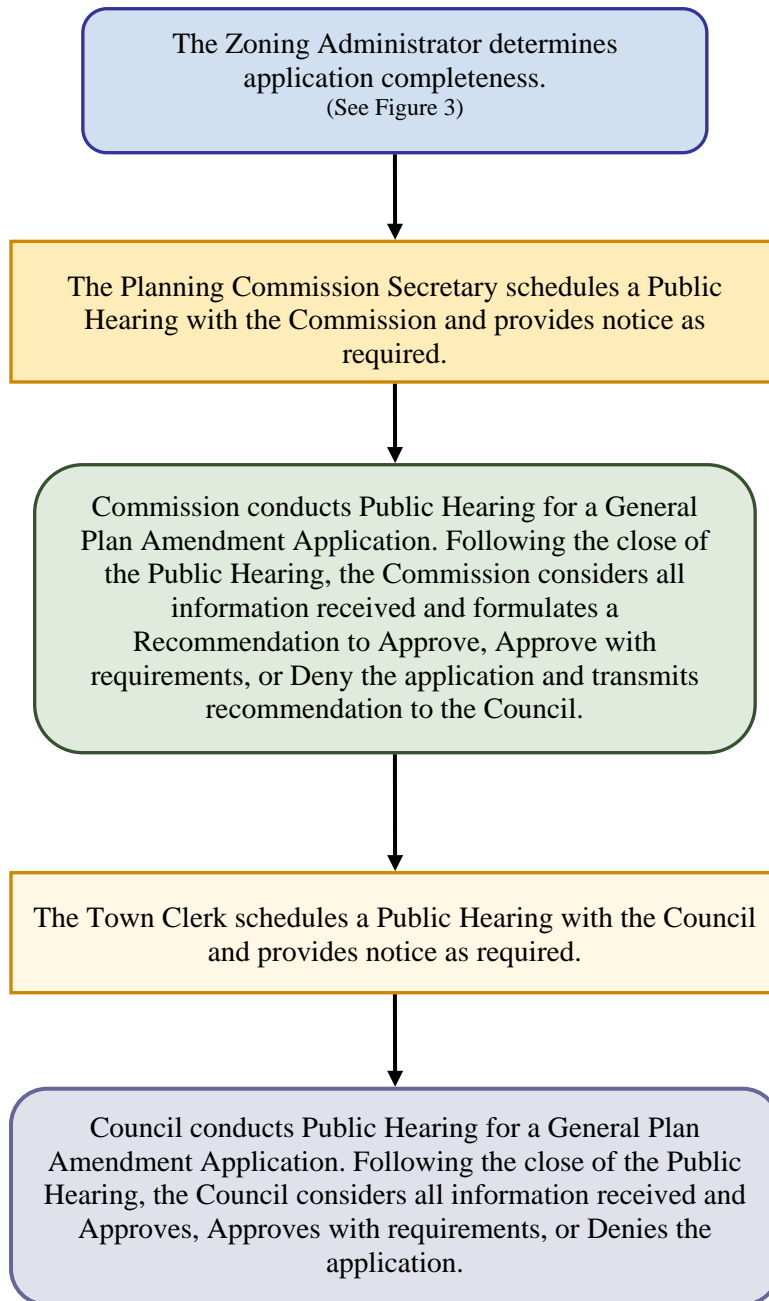
**Section 407 Criteria for Approval of a Zoning Ordinance and/or Zoning Districts Map Amendment:**

1. **General Plan Consistency Required.** No amendment to the Zoning Ordinance or Zoning Districts Map (rezone) may be recommended by the Commission nor approved by the Council unless such amendment is found to be consistent with the General Plan. In considering a Zoning Ordinance or Zoning Districts Map amendment, the Commission and the Council shall consider the following factors, among others:
  - a) The effect of the proposed amendment on the character of the surrounding area;
  - b) The compatibility of the proposed uses with nearby and adjoining properties;
  - c) The suitability of the properties for the uses requested; and
  - d) The overall community benefit of the proposed amendment.

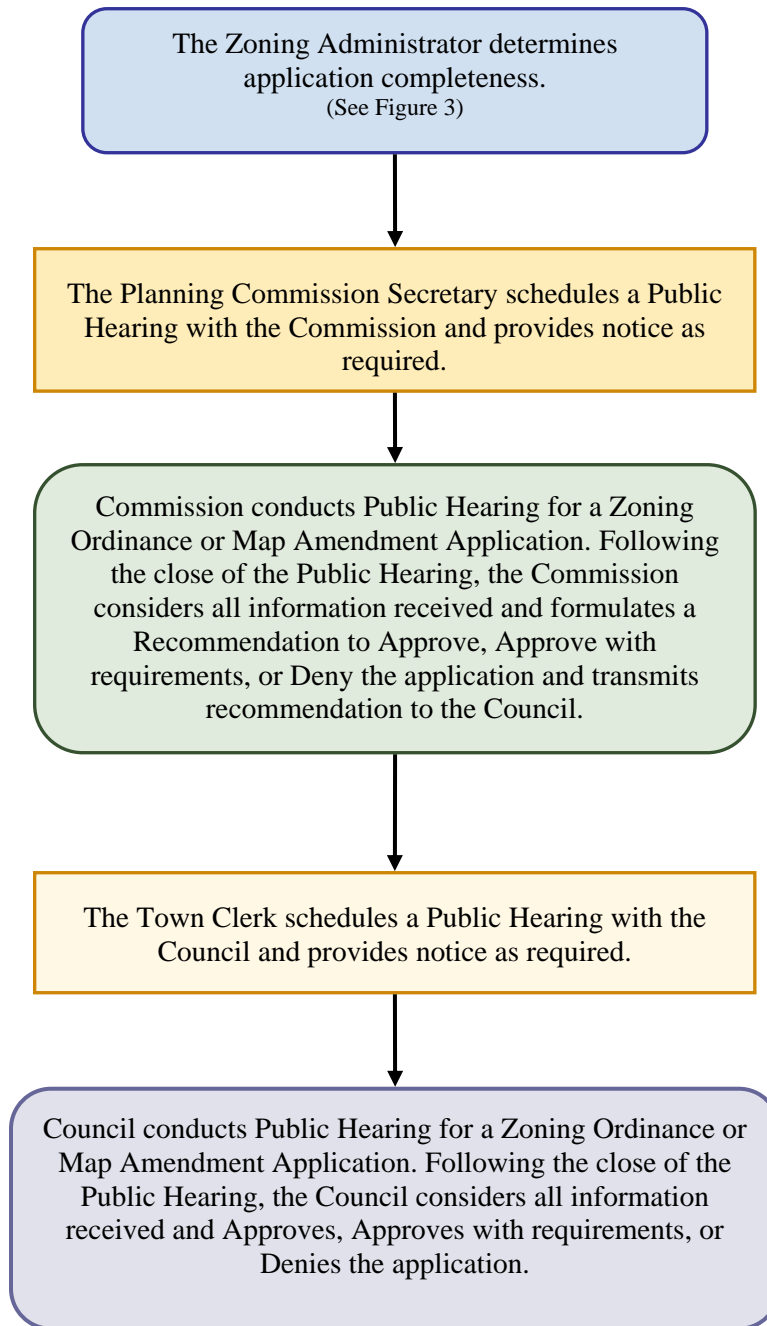
**Section 408 Effect of an Amendment to the Zoning Ordinance and Zoning Districts Map:**

An amendment to the Zoning Ordinance and Zoning Districts Map (Rezone) shall not authorize the development of land. After an amendment has been approved by the Council, no development shall occur until the required development permits and licenses have been issued by the Town consistent with the applicable provisions of this Ordinance, the Subdivision Ordinance, the Building Codes, as adopted by the Town, and all other Ordinances.

**FIGURE 1**  
**GENERAL PLAN AMENDMENT APPLICATION**  
**REVIEW PROCEDURES**



**FIGURE 2**  
**ZONING ORDINANCE or MAP AMENDMENT APPLICATION**  
**REVIEW PROCEDURES**



## **CHAPTER 5 DEVELOPMENT APPLICATIONS AND PROCEDURES**

### **Section 501 Purpose:**

The development applications and procedures of Boulder Town are formulated and intended to protect the public health, safety, and welfare of the Town through the application of the provisions of this Ordinance.

### **Section 502 Applicability:**

A development or building permit application shall be required for all uses, intensification of uses, and construction or modifications for all properties located within the municipal boundaries of Boulder Town. All development applications are to be presented to the Town on the applicable application form(s) available from the Town. The type of development application presented to the Town is at the discretion of the applicant.

### **Section 503 Application Forms:**

The Town Council shall identify submittal requirements and internal procedures for acceptance and filing of applications. The Town shall provide the necessary application forms for the administration, interpretation, and enforcement of this Ordinance.

### **Section 504 Development Application Procedures:**

The steps in the review and consideration of the various development applications, permits, and licenses authorized by this Ordinance may be identified by the Town in this Ordinance.

### **Section 505 Permits Required:**

The standards and requirements of this Ordinance, as applicable, shall apply to all uses or development activity located or proposed within Boulder Town. No use or development activity may be commenced or undertaken unless all necessary approvals, permits, and licenses have been issued in accordance with the provisions of this Ordinance, as applicable.

### **Section 506 Development Application; Initiation:**

An application for a required development approval, permit, or license shall be initiated by submitting the appropriate application(s) to the Town.



**Section 507 Determination of Application Completeness:**

After the receipt of an application, the Zoning Administrator shall determine whether the application is complete. If the Zoning Administrator determines that the application is incomplete, the Zoning Administrator shall notify the applicant in writing, identifying the deficiencies of the application, and advising the applicant that no action will be taken by the Town until the deficiencies have been corrected. Determinations of completeness made by Zoning Administrator shall be reviewed by the Board of Adjustment if the applicant considers the determination to be in error.

**Section 508 Remediating Application Deficiencies:**

If the applicant fails to correct the specified deficiencies within thirty (30) days following notification of application deficiency by the Zoning Administrator, the application for development approval, permit or license shall be deemed withdrawn and will be returned to the applicant. All application fees shall also be returned to the applicant.

**Section 509 Payment of Taxes and Charges Required:**

All development approvals may be conditioned so that no building permit is issued on the subject property until all delinquent taxes and charges have been paid to date of approval.

**Section 510 Scope of Development Approvals:**

1. The rights conferred by a development permit upon the filing of a complete application and approval by the Town shall be limited to those rights granted in the applicable provisions of this Ordinance and subject to any conditions attached to the development permit.
2. A development permit shall be considered void after one (1) year unless construction has taken place or the activity has commenced; provided, however, that a longer period may be provided for a phased development application as set forth in the development approval.

**Section 511 Amendment to Development Permits:**

All proposed amendments to an approved development approval, permit or license issued under the provisions of this Ordinance must be reviewed and reapproved in accordance with the procedures established for the approval of the original development approval or development permit, unless determined to be a minor revision under the provisions of this Ordinance.

**Section 512 Reapplication Following Denial:**

If an application for a development approval, permit or license is denied for failure to meet the requirements of this Ordinance, an application for all or a part of the same property shall not be considered for a period of at least one (1) year from the date of denial unless the subsequent application is for a development that is different from the previously denied proposal, the prior denial was based upon a mistake of fact, or on a motion duly passed by the Town Council to act immediately and identifying a valid public purpose.

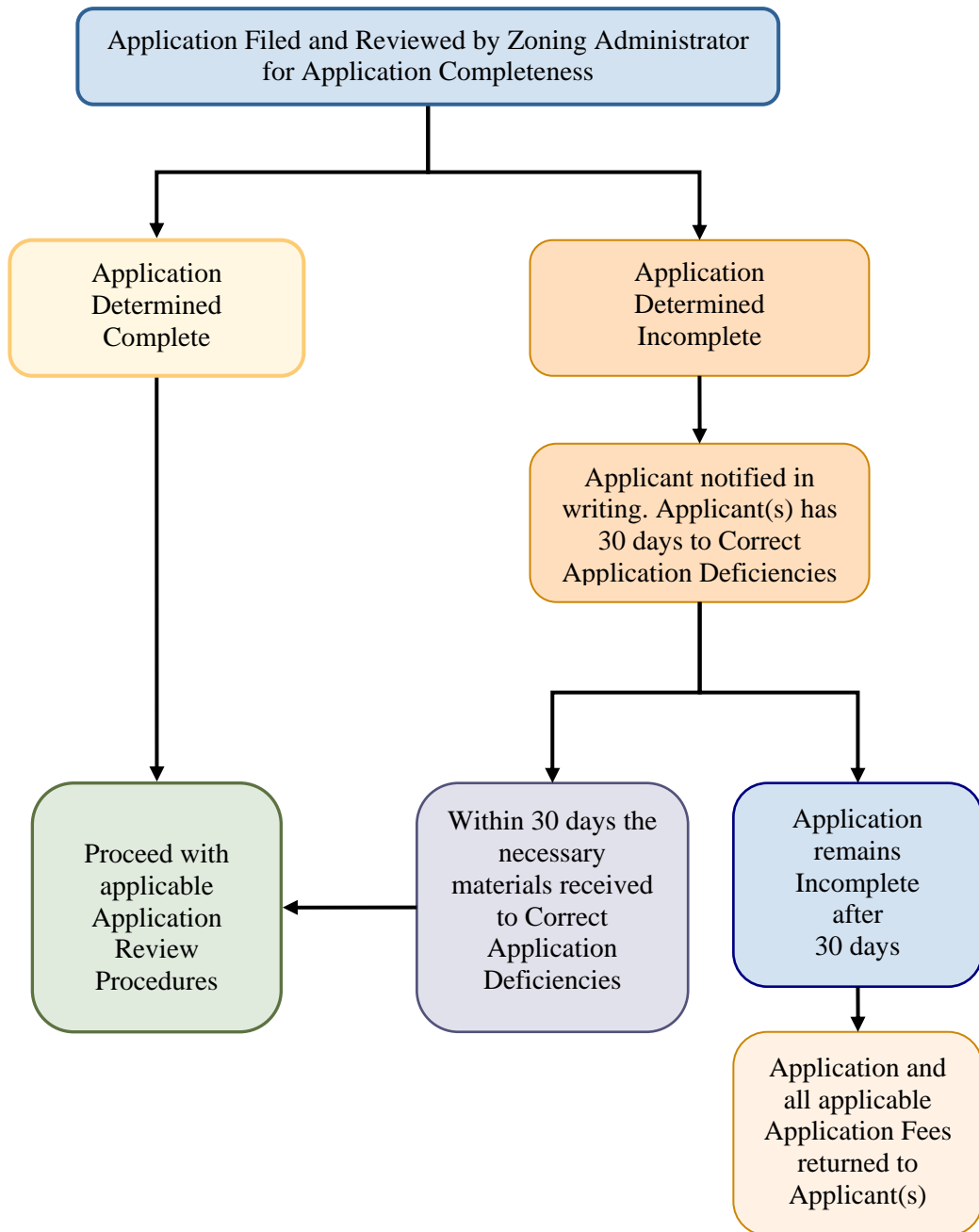
**Section 513 Inspections:**

In order to review information relevant to an application, permit, or license, Town official(s) may, upon the permission of the owner, enter upon any public or private premises and make an inspection thereof.

**Section 514 Fee for Processing Development Applications:**

The Town Council shall establish, by resolution, a fee schedule for the processing and review of all applications, permits, and licenses required by this Ordinance, designed to recover the actual or anticipated costs of review and processing of the application. The fee schedule may be amended from time to time by resolution of the Town Council.

**FIGURE 3**  
**DETERMINATION OF APPLICATION COMPLETENESS PROCEDURES**



## **CHAPTER 6 ESTABLISHMENT OF ZONING DISTRICTS**

### **Section 601 Zoning by Districts:**

In accordance with the requirement of the Utah Code that zoning within municipalities be by districts, Boulder Town, as shown on the Boulder Town Zoning Districts Map, is divided into zoning districts that govern the use, intensity and other requirements for the use of land. The map accompanying this Ordinance, the Boulder Town Zoning Districts Map (Zoning Map), and incorporated herein by reference, identifies the location and distribution of each zoning district provided by the Town. All development, use, activity, and permits and licenses shall conform to all the provisions, standards, and requirements of the applicable zoning district.

To meet the purposes of this Ordinance, the following zoning districts are provided:

1. Greenbelt - Multiple Use District (GMU).
2. Low Density Residential District (LDR).
3. Medium Density Residential District (MDR).
4. High Density Residential District (HDR).
5. Commercial District (C)

### **Section 602 Zoning Districts Purpose:**

The zoning districts are formulated to provide and achieve the following purposes:

1. **Greenbelt - Multiple Use District (GMU).**

The Greenbelt - Multiple Use District (GMU) is established to provide areas for agricultural activities and to allow other uses determined to be compatible with agricultural uses and activities.

2. **Low Density Residential District (LDR).**

This District provides for a single-family large lot, low-density residential living environment with a density of one (1) dwelling unit for each five (5) acres and other uses that do not require additional public facilities and services than those provided to a low-density residential area. Additionally, this district is established to allow limited development on areas that may possess certain constraints for development.

3. **Medium Density Residential District (MDR).**

The Medium Density Residential (MDR) District, providing a maximum density of one (1) dwelling unit per two and half (2½) acres, is provided by Boulder Town to allow an alternative residential living environment than those provided by the LDR and HDR districts.

**4. High Density Residential District (HDR).**

The High Density Residential District (HDR) provides higher density residential areas and allows a variety of other uses and services to meet the needs of residents of the Town.

**5. Commercial District (C).**

Boulder Town provides the Commercial (C) District to allow a variety of retail commercial, office, and light industrial activities within the Town to meet the needs of residents and visitors, to provide employment opportunities for residents, and to strengthen and provide diversity to the local economy.

**Section 603 Table of Uses:**

The Table of Uses (Table 1) identifies the uses allowed within each Zoning District of the Town. The Table of Uses identifies uses allowed as a Permitted Use (identified as “P” in the Table of Uses), uses allowed as a Conditional Use (identified as “C” in the Table of Uses) and uses allowed as a Temporary Use (identified as “T” in the Table of Uses). The Table of Uses is accompanied by “Use Definitions” identifying the definition for each use allowed by this Ordinance. All uses not identified as either a Permitted Use, Conditional Use or Temporary Use, or a use not identified or defined, are hereby deemed to be Prohibited Use in the Zoning District. Table of Uses cells that are left blank indicate the use is a Prohibited Use in the particular zoning district, though the use may be allowed in other zone(s).

**Table 1**  
**Table of Uses**

Use	Zoning District				
	GMU	LDR	MDR	HDR	C
Accessory Dwelling Unit for Employees	C				C
Accessory Use or Building	P	P	P	P	P
Agriculture	P	P	P	P	P
Agricultural Building	P	P	P	P	P
Automotive Care					C
Bed and Breakfast Inn	C	C	C	C	C
Campground	C	C			C
Cemetery	C	C			
Church	C	C	C	C	C
Commercial Sales and Services					C
Concrete Plant associated with an existing Gravel Pit (Added by the Adoption of Ord. #48 – passed 8/8/2002).	C				
Day Care/Preschool Center					C
Day Treatment Facility/Program					
Group Child Care	C	C	C	C	C
Guest Ranch	C	C			
Home Child Care	P	P	P	P	P
Home Occupation	P	P	P	P	P
Home Preschool	P	P	P	P	P
Hotel					C
Intermediate Secure Treatment Facility/Program for Minors					
Light Manufacturing					C
Motel					C
Outpatient Treatment Facility/Program					

*Boulder Town Zoning Ordinance (Amended)  
As Amended to 5/8/2008 by Ordinance #59*

Use	Zoning District				
	GMU	LDR	MDR	HDR	C
Professional Offices					C
Public Uses and Utilities	C	C	C	C	C
Recreational Facility	C				C
RV and Campground Parks (Added by the Adoption of Ord. #51 – passed 11/5/2003).	C	C	C	C	C
Recreational Vehicle or Mobile Home as Interim Residence During Construction (Added by the Adoption of Ord. # 46B – passed 12/3/2003).	C	C	C	C	C
Residential Facility for Elderly Persons	C	C	C	C	
Residential Facility for Persons with a Disability	C	C	C	C	
Residential Support Facility/Program					
Residential Treatment Facility/Program					
Resort	C				
Restaurant					C
Retail Sales and Services					C
School	C	C	C	C	
Single Family Dwelling on a legal lot of record	P	P	P	P	
Social Detoxification Facility/Program					
Temporary Use	T	T	T	T	T
Veterinary Clinic	C				C
Wholesale Business and Storage					C

Table of Uses Notes:

P = Permitted Use; C = Conditional Use; T = Temporary Use, Cell Blank or Use not Identified = Prohibited Use

## **Section 604 Use Definitions:**

For the purpose of applying the Table of Uses and rendering other decisions required by this Ordinance, the Uses identified in the Table of Uses (Table 1) are hereby defined as follows:

**Accessory Building:** A subordinate building detached from, but located on the same lot as the principal use, the use of which is incidental and accessory to that of the principal use. An Accessory Building shall be no larger than 1000 square feet and shall contain no living facilities, including cooking facilities, and shall not be used as a dwelling unit.

**Accessory Dwelling Unit for Employees:** A Dwelling Unit for an employee of the owner of the principal structure and which is located on the same lot as the principal structure.

**Accessory Use:** A use clearly subordinate and customarily incidental to, and located on the same parcel as an authorized permitted or conditional use. Accessory Use may include the parking of one (1) vehicle or piece of equipment owned by the owner of the parcel, and used in the conduct of a business or activity, as allowed and licensed by the Town. (Amended by the Adoption of Ord. #47 – passed 6/19/2002).

**Agriculture:** The production, keeping, or maintenance for sale of plants and animals useful to man, including crops and products such as vegetables, fruit trees, hay, sod, grain, honey, milk, cheese, and any other agricultural or horticultural products and their storage, the raising thereon of farm poultry and farm livestock and animals, such as cattle, sheep, goats, or animals of the Bovinae family; all horses, mules, or animals of the Equine family; all pigs, swine, or animals of the Suinae family; fur bearing animals, bees, and ostriches, rhea, and emu; trees and forest products; wholesale fruits of all kinds, including grapes, nuts, and berries; wholesale vegetables; wholesale nursery, floral, ornamental, and greenhouse products; or lands devoted to a soil conservation or forestry management program. Agriculture does not include Concentrated Animal Feeding Operations, as defined by the Administrative Rules of the State of Utah, R317-8-3.5(5)(a) and (b) as amended, and subject to the Utah Pollutant Discharge Elimination System (UPDES)

**Agricultural Building:** A structure used solely in conjunction with agriculture use, and not for human occupancy, and complying with the requirements of §58-56-4, Utah Code Annotated, 1953, as amended. To qualify as an agricultural building the structure must be located outside of a residential area, as defined by §58-56-4(1), Utah Code Annotated, 1953, as amended.

**Automotive Care.** An establishment providing motor vehicle repair or maintenance services. Typical uses include businesses engaged in the following activities: electronic tune-ups, brake repairs (including drum turning), air conditioning repairs, generator and starter repairs, tire repairs, front-end alignments, battery recharging, lubrication, and sales, repair and



installation of minor parts and accessories such as tires, batteries, windshield wipers, hoses, windows, etc.

**Bed and Breakfast Inn:** A residential structure offering transient lodging accommodations where meals may be provided. A Bed and Breakfast Inn shall have no more than five guest rooms and shall meet all applicable health, safety and building codes.

**Campground:** An area of land upon which two or more campsites are located, established, or maintained for occupancy by a tent or recreational vehicle as a temporary dwelling unit for recreational or vacation purposes.

**Cemetery:** A place designated for the burial or keeping of the remains of the dead, whether human or animal, including crematories and mausoleums and meeting all applicable Local, State and Federal requirements and regulations.

**Church:** A facility principally used for people to gather for public worship, religious training, or other religious activities. One dwelling for the housing of the pastor or similar leader of the church and family will be considered as incidental and a part of this use.

**Commercial Sales and Services:** An activity involving the sale of goods and services, including the sale of personal or household goods, for profit. Commercial Sales and Services include tradesman's shops and construction and contractor services. No Commercial Sales and Services establishment shall include or provide "Drive-up" windows or "Drive through" facilities.

**Concrete Plant associated with an existing Gravel Pit:** A facility, with associated loading and unloading areas, materials, storage areas and equipment, for the manufacture, transfer, storage and distribution of concrete and concrete related products and located within the boundaries of a gravel pit. (Added by the Adoption of Ord. #48 – passed 8/8/2002).

**Day Care/Preschool Center:** Any facility, at a nonresidential location, operated by a person qualified by the State of Utah, which provides children with day care and/or preschool instruction as a commercial business and complying with all State standards and licensing.

**Day Treatment Facility/Program:** Specialized treatment for less than 24 hours a day, for four (4) or more persons who are unrelated to the owner or provider and is established and operated as required by the standards and rules, as adopted by the Utah State Department of Human Services, governing the licensure of Day Treatment Programs. A Day Treatment Facility/Program provides services to individuals who have emotional, psychological, developmental, physical, or behavioral dysfunctions, impairments, or chemical dependencies. Day Treatment is provided in lieu of, or in coordination with, a more restrictive residential or inpatient environment or service in accordance with §62A-2-101,5, Utah Code Annotated, 1953, as amended.

**Existing Gravel Pit:** An open excavation or pit from which gravel or other stones or earthen materials have been obtained by digging, cutting, crushing, or blasting, and which existed prior to the adoption of the Zoning Ordinance, as a legally authorized use. (Added by the Adoption of Ord. #48 – passed 8/8/2002).

**Group Child Care:** The care of children who are family and non-family members in an occupied dwelling, and complying with all State standards and licensing, by the resident of that dwelling at least twice a week for more than three (3) children, but fewer than seventeen (17) children. The total number of children being cared for shall include children under the age of four (4) years residing in the dwelling, who are under the supervision of the provider during the period of time the childcare is provided. There shall be at least two (2) care givers at all times when there are nine (9) or more children present.

**Guest Ranch:** A facility, including either a single building or resort cabins, which serves as a destination point for visitors and generally has accessory recreational facilities for the use of guests.

**Home Day Care:** The care for children who are family and non-family members in an occupied dwelling, and complying with all State standards and licensing, by the resident of that dwelling at least twice a week for more than three (3) children, but fewer than nine (9) children. The total number of children being cared for shall include children under the age of four (4) years residing in the dwelling, who are under the supervision of the provider during the period of time the childcare is provided. When a caregiver cares for only three (3) children under age two (2), the group size, at any given time shall not exceed six (6).

**Home Occupation:** An activity carried out for gain by a resident and conducted entirely within the resident's home and/or a separate building of no more than 750 square feet and is clearly incidental and accessory to the residential use of the dwelling or property and provided that the home occupation does not change the residential character of the residence and does not result in noise, vibration, light, odor, dust, smoke, or other air pollution noticeable at or beyond the property line, does not include any outside storage of goods, materials, or equipment, has no signage, complies with all required Federal and State licensing requirements, complies with all required Local licensing requirements.

**Home Preschool:** A preschool program complying with all State standards and licensing for non-family members in an occupied dwelling, by residents of that dwelling, in which lessons are provided for not more than six (6) children for each session of instruction. Sessions shall last for not more than four (4) hours and shall not overlap. Individual children may attend only one (1) preschool session in any 24-hour period.

**Hotel:** A building offering transient lodging accommodations to the public and which may provide additional services, such as restaurants, meeting rooms, entertainment, and recreational facilities. A hotel shall have no more than 30 guest rooms.

**Intermediate Secure Treatment Facility/Program for Minors:** A 24-hour group living environment for four (4) or more individuals unrelated to the owner or provider, and is established and operated as required by the standards and rules, as adopted by the Utah State Department of Human Services, governing the licensure of Intermediate Secure Treatment Programs, in a facility designed to physically restrict minors' ability to leave the program at their own free will. An Intermediate Secure Treatment Facility/Program offers room and board and provides for or arranges for the provision of specialized treatment, rehabilitation, or habilitation services for children and youth. In secure treatment, each consumer is assisted in acquiring the social and behavioral skills necessary for living in the community.

**Legal Lot of Record:** Any land parcel that existed, as recorded in the Office of the County Recorder, and with a separate property identification number as provided by the Office of the County Recorder and Office of the County Assessor, prior to September 11, 1998, and all parcels that were legally created for the purposes of development pursuant to the subdivision requirements of the Town and the laws of the State of Utah after September 11, 1998, but excluding those parcels that were created only for the purposes of transfer of ownership or for agricultural purposes created under Title 59, Chapter 2, Part 5, Farmland Assessment Act.

**Light Manufacturing:** The assembly, fabrication or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or lot where such assembly, fabrication or processing takes place, where such processes are housed entirely within a building, or where the area occupied by outdoor storage of goods and materials used in such processes does not exceed twenty-five percent of the floor area of all buildings on the property. Light manufacturing generally includes processing and fabrication of finished products, predominantly from previously prepared materials, and includes processes that do not require extensive floor areas or land areas.

**Mobile home:** A transportable factory built housing unit built prior to June 15, 1976, in accordance with a state mobile home code that existed prior to the Federal Manufactured Housing and Safety Standards Act (HUD Code).

**Motel:** A building or group of buildings containing guest rooms, some or all of which have a separate entrance leading directly from the outside of the building with a garage or parking space located on the lot and designed, used or intended wholly or in part for the accommodation of automobile transients. A motel shall have no more than 30 guest rooms.

**Outpatient Treatment Facility/Program:** Individual, family, or group therapy or counseling designed to improve and enhance social or psychological functioning of those consumers

whose physical or emotional status allows them to continue functioning in their usual living environment in accordance with §62A-2-101,15, Utah Code Annotated, 1953, as amended, and as required by the standards and rules, as adopted by the Utah State Department of Human Services, governing the licensure of Outpatient Treatment Programs. An Outpatient Treatment Facility/Program shall serve consumers who require less structure than offered in Day Treatment Facility/Program. Consumers are provided treatment as often as determined and noted in the treatment plan.

**Professional Offices:** A building for the professions including but not limited to government, physicians, dentists, lawyers, realtors, architects, engineers, artists, musicians, designers, teachers, accountants and others who, through training, are qualified to perform services of a professional nature, and where no storage or sale of merchandise exists.

**Public Uses and Utilities:** A use operated exclusively by a public body or quasi-public body, such use having the purpose of serving the public health, safety or general welfare, and including recreational facilities, administrative and service facilities, and public utilities, including water and sewer facilities, gas and electricity facilities, cable television facilities and telecommunications facilities, but excluding airports, prisons and animal control facilities.

**Recreational Facility:** A place, either indoor or outdoor, designed and equipped for the conduct of sports and leisure-time activities.

**Recreational vehicle or RV:** A motor coach or a travel trailer in working condition and capable of locomotion under its own power or by being towed and able to move from location to location. Any trailer of any type or motor coach incapable of movement does not qualify as an RV for purposes of this Ordinance. (Added by the Adoption of Ord. #46D – passed on 8/4/2005).

**Residential Facility for Elderly Persons:** A facility as defined by Sec.10-9a-103; Utah Code Annotated, as amended.

**Residential Facility for Persons with a Disability:** A residential dwelling (for four (4) or more persons) as licensed by the Department of Human Services, Division of Services for People with Disabilities. Disability means 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 impairment or being regarded as having such impairment. (§57-21-2(9)(a) Utah Code Annotated, 1953, as amended). 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. (§57-21-2(9)(b) Utah Code Annotated, 1953, as amended). Disability does not include placement in lieu of confinement, rehabilitation, or treatment in a correctional facility.

**Residential Treatment Facility/Program:** A 24-hour group living environment for four (4) or more individuals unrelated to the owner or provider and operated in accordance with the requirements of §62A-2-101,17, Utah Code Annotated, 1953, as amended, and the standards and rules, as adopted by the Utah State Department of Human Services, governing the licensure of Residential Treatment Programs. A Residential Treatment Facility/Program offers room and board and provides for or arranges for the provision of specialized treatment, rehabilitation, or habilitation services for persons with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies. In a Residential Treatment Facility/Program consumers are assisted in acquiring the social and behavioral skills necessary for living in the community in accordance with §62A-2-101,17, Utah Code Annotated, 1953, as amended.

**Residential Support Facility/Program:** A 24-hour group living environment, providing room and board for four (4) or more consumers unrelated to the owner or provider in accordance with §62A-2-101,16, Utah Code Annotated, 1953, as amended, and the standards and rules, as adopted by the Utah State Department of Human Services, governing the licensure of Residential Support Programs. A Residential Support Facility provides the necessities of life as a protective service to individuals or families who are experiencing a dislocation or emergency which prevents them from providing these services for themselves or their families. Treatment is not a necessary component of Residential Support; however, treatment shall be made available on request.

**Resort:** A facility that serves as a destination point for visitors and generally has recreational facilities for the use of guests and may include residential accommodations for guests. Guest residency is limited to no more than 90 days.

**Restaurant:** An establishment where food and drink is prepared, served, and consumed within the building. “Restaurant” does not include uses that are identified as Take-out or Drive-in restaurants; where food is served primarily in paper, plastic or other disposable containers; where customers may remove such food or beverage products from the food service establishment for consumption; and the establishment is required by contractual or other arrangements to operate with standardized menus, ingredients, architecture, decor, uniforms or similar standardized features.

**School:** Any building or part thereof that is designed, constructed, or used for education or instruction by a public or private organization in any branch of knowledge, but excluding preschool center.

**Single-Family Dwelling:** A building arranged or designed to be used for and containing one dwelling unit.

**Social Detoxification Facility/Program:** A short-term non-medical treatment service for consumers unrelated to the owner or provider in accordance with §62A-2-101,19, Utah Code

Annotated, 1953, as amended, and the standards and rules, as adopted by the Utah State Department of Human Services, governing the licensure of Social Detoxification Programs. A Social Detoxification Facility/Program offers room, board, and specialized rehabilitation services to persons who are in an intoxicated state. In a Social Detoxification Facility, consumers are assisted in acquiring the sobriety and drug-free condition necessary for living in the community and places emphasis on helping the consumer obtain further care after detoxification.

**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.

**Temporary use:** A use established for a maximum period of 120 days, such use being discontinued after the expiration of 120 days. Such use may include, but is not limited to, construction offices or the storage of materials and equipment necessary for construction and seasonal activities such as a corn maze, pumpkin patch/stand, fireworks stand, and Christmas tree lot. (Amended by the Adoption of Ord.. # 46A – passed 1/10/2003).

**Veterinary Clinic:** A facility for the diagnosis, treatment, and hospitalization of animals that may include indoor and outdoor animal holding facilities.

**Wholesale Business and Storage:** Establishments or places of business primarily engaged in selling of merchandise to retailers; to industrial, commercial, institutional, or professional business users; to other wholesalers, or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

## **Section 605 Table of Development Standards:**

The Table of Development Standards accompanies the Table of Uses. This table identifies the maximum residential density allowed, required setback and yard standards, building height standards, site coverage standards, and other requirements for the uses allowed within each Zoning District.

**Table 2**  
**Table of Development Standards**

<b>Required Development Standards for All Principal Buildings</b>					
SITE DEVELOPMENT REQUIREMENT	ZONING DISTRICT				
	GMU	LDR	MDR	HDR	C
Lot Required	Principal Buildings shall be on a Lot, as defined by this Ordinance				
Utilities	Principal Buildings shall be permanently connected to and approved for all required utilities				
Permanent Foundation	Principal Buildings must be located on a site-built permanent foundation which meets the International Building Code (IBC) and all other Codes, or, if a Manufactured Home, meets the requirements for manufactured housing installations				
Maximum Allowed Residential Density	1 Dwelling Unit per 5 acres	1 Dwelling Unit per 5 acres	1 Dwelling Unit per 2.5 acres	1 Dwelling Unit per 1 acre	Lot size sufficient to meet all site requirements of this Ordinance
Minimum Lot Size Required (Exclusive of Road Easements) (Amended by the Adoption of Ord. #50 – passed 7/2/2003).	5 acres	5 acres	2.5 acres	1 acre	No Requirement
Maximum Building Height	2½ stories or 30 feet	2½ stories or 30 feet	2½ stories or 30 feet	2½ stories or 30 feet	2½ stories or 30 feet
Minimum Lot Width	One-third of lot depth	One-third of lot depth	One-third of lot depth	One-third of lot depth	One-third of lot depth
Minimum Front Yard	30 feet	30 feet	30 feet	30 feet	30 feet
Minimum Rear Yard	30 feet	30 feet	30 feet	30 feet	30 feet

<b>Required Development Standards for All Principal Buildings</b>					
SITE DEVELOPMENT REQUIREMENT	ZONING DISTRICT				
	GMU	LDR	MDR	HDR	C
Minimum Side Yard	10 feet	10 feet	10 feet	10 feet	30 if located adjacent to a residential use or residential zone; otherwise, as allowed by the International Building Code (IBC)
<b>Required Development Standards for Accessory Buildings</b>					
Maximum Size	1,000 square feet	1,000 square feet	1,000 square feet	1,000 square feet	1,000 square feet
Minimum Front Yard	30 feet	30 feet	30 feet	30 feet	30 feet
Minimum Rear Yard	Must meet the requirements of the International Building Code (IBC)	Must meet the requirements of the International Building Code (IBC)	Must meet the requirements of the International Building Code (IBC)	Must meet the requirements of the International Building Code (IBC)	Must meet the requirements of the International Building Code (IBC)
Minimum Side Yard	Must meet the requirements of the International Building Code (IBC)	Must meet the requirements of the International Building Code (IBC)	Must meet the requirements of the International Building Code (IBC)	Must meet the requirements of the International Building Code (IBC)	Must meet the requirements of the International Building Code (IBC)
Total Maximum Lot Coverage (Principal plus Accessory Buildings)	20%	20%	30%	40%	50%



**Section 606 Off-Street Parking Requirements:**

The Table of Off-Street Parking Requirements (Table 3) accompanies the Table of Uses. This table identifies the minimum number of off-street parking spaces required to be provided by each use or activity allowed within each Zoning District.

**Table 3  
Table of Required Off-Street Parking**

<b>Required Off-Street Parking</b>	
Single-Family Dwelling	2 per dwelling unit
Residential Facilities For Persons with Disabilities	1 per each 4 residents plus 1 for each 2 employees during regular hours
Residential Facilities For Elderly Persons	1 per each 4 residents plus 1 for each 2 employees during regular hours
Schools	As approved by the Planning Commission
Churches	1 space for every 4 seats in the assembly area
Parks and Playgrounds	As approved by the Planning Commission
Sports Fields, Sporting Facilities, Arenas	1 space for every five seats at maximum capacity or as approved by the Planning Commission
Civic/Public Buildings/Public Facilities	1 space for every 400 square feet of floor area or as approved by the Planning Commission
Hotels/Motels	1 space for each sleeping unit
Light Manufacturing	1 for each person employed during regular working hours and adequate spaces for all company owned vehicles and visitors
Commercial Sales and Services	1 space for each 400 square feet of floor area
Corporate Offices, Professional Offices, Business Offices and Financial Institutions	2 spaces plus 1 space for each 300 square feet of gross floor area
Restaurants	1 space for each 4.0 seats or 1 space per 100 square feet of gross floor area, whichever is less
Bed and Breakfast Inn	1 space for employee plus one 1 space per guest room.

Notes Accompanying Table of Off-Street Parking Standards

1. Americans with Disabilities Act. All property owners and applicants for development approvals are advised that in addition to the minimum off-street parking requirements, they are also required to comply with the minimum standards for the provision of handicapped parking spaces as identified and required by the Americans with Disabilities Act, as amended.
2. Location of Required Parking Spaces. No off-street parking shall be provided within any required Front Yard setback, such area being landscaped.
3. Dimensions of Required Parking Spaces. Each required parking space shall be an area of not less than eight feet six inches (8'6") in width and having an area of not less than one hundred eighty (180) square feet, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress of an automobile.
4. Maintenance and Development Standards for all Parking Areas.
  - a) All off-street parking areas with more than four parking spaces shall provide adequate drainage.
  - b) Any off-street parking area providing parking for more than twenty (20) vehicles shall provide at least five percent (5%) of the parking area in landscape treatments located within the parking area.
  - c) Any off-street parking area providing parking for more than ten (10) vehicles that adjoins a Residential Zoning District or a residential structure shall be screened by a solid visual barrier not less than four (4) feet or higher than six (6) feet.
  - d) Any lighting located within an off-street parking area shall be so arranged and designed so as not to allow light trespass onto any adjoining property.
5. Loading and Unloading Requirements and Regulations.
  - a) Loading and Unloading for Commercial and Industrial Buildings. For all commercial and industrial buildings hereafter erected, or for any building converted to such use or occupancy, there shall be provided one (1) loading and unloading space for each twenty five thousand (25,000) square feet of floor area or as approved by the Planning Commission.
  - b) Location of Required Loading and Unloading Spaces. The required loading and unloading spaces shall in all cases be on the same lot as the use they are intended to serve. In no case shall required loading and unloading spaces be part of the area used to satisfy the parking requirement.

- c) **Collective Action Relative to Loading and Unloading.** This Ordinance shall not be construed to prevent the joint use of loading and unloading spaces for two (2) or more buildings or uses if the total of such spaces when used together is not less than the sum of the spaces required for the various individual buildings or uses computed separately.

## **CHAPTER 7 PERMITTED USES - REVIEW AND APPROVAL**

### **Section 701 Approval Required:**

All requests to establish a Permitted Use, as identified as a Permitted Use in the Table of Uses, or to construct any associated buildings, shall be made on the application form provided by the Town.

### **Section 702 Application Requirements:**

Applications for a permitted use are required to comply with all requirements of this Ordinance for review and approval and the requirements for a building permit, as applicable.

### **Section 703 Review and Approval Procedures:**

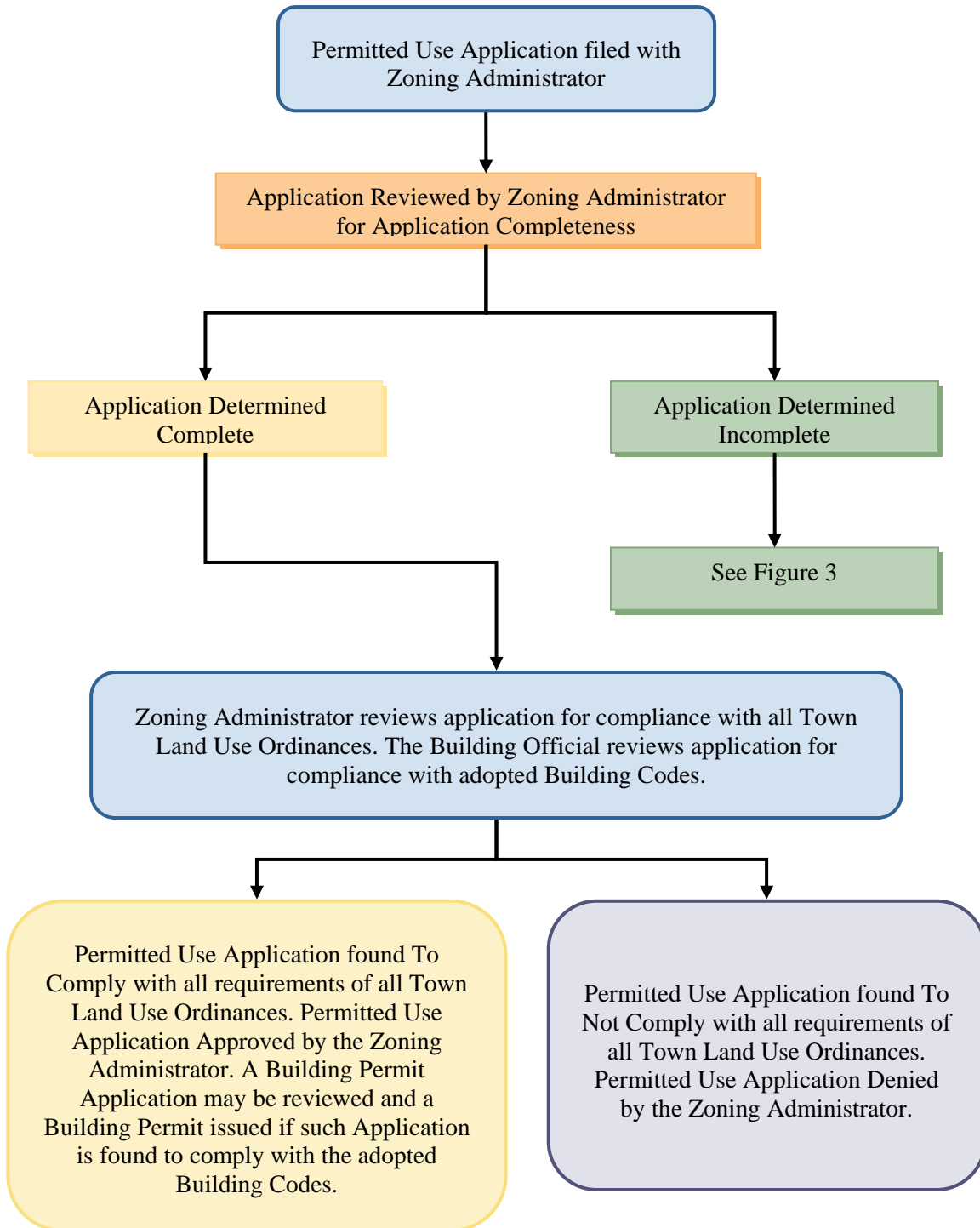
The Zoning Administrator shall review the permitted use request and determine if the request:

1. Is a permitted use within the zoning district.
2. Complies with the requirements applicable to the zoning district, including minimum area, yard setbacks, height, and all other requirements applicable in the zoning district.
3. Does not propose any construction on any critical lands as defined by this Ordinance.
4. Complies with all applicable dedication requirements of the Town and provides the necessary infrastructure, as required.

Upon finding that the proposed use, building, or structure complies with the standards and requirements as identified in (1) to (4) above and the proposed use, building, or structure can be adequately serviced by the existing or proposed infrastructure, the development plans shall be reviewed for compliance to the provisions of the International Building Code (IBC) and all other Codes, by the Building Official. If the request for a permitted use, building, or structure complies with all the requirements of this Chapter and the International Building Code (IBC).and all other Codes, the permitted use shall be authorized and a building permit issued.

If the permitted use request does not comply with the requirements of this Ordinance and the International Building Code (IBC) and all other Codes, the Zoning Administrator shall not authorize any use, building, or structure, and no building permit shall be issued. The Zoning Administrator shall notify the applicant identifying what requirements have not been satisfied.

**FIGURE 4**  
**PERMITTED USE APPLICATION REVIEW PROCEDURES**



## **CHAPTER 8 CONDITIONAL USE PERMITS**

### **Section 801 Issuance and Purpose:**

Conditional use permits may be issued as provided by this Ordinance for any of the uses identified as a Conditional Use in the Table of Uses.

The purpose of the issuance of a Conditional Use permit is to allow the proper integration of uses that may be suitable only if such uses are designed, arranged, or conducted in a particular manner.

### **Section 802 Applications, Public Hearing Required. Planning Commission Authorized to Render Conditional Use Decisions:**

All requests to establish a Conditional Use, as identified as a Conditional Use in the Table of Uses, or to construct any associated buildings, shall be made on the application form provided by the Town and include a Site Development Plan.

The Planning Commission is authorized to render a final decision on the issuance of a Conditional Use permit. Prior to rendering any final decision on the issuance of a Conditional Use permit, the Planning Commission shall conduct a public hearing to receive comment and input on the application.

### **Section 803 Site Development Plan Requirements:**

A Site Development Plan shall be required to accompany all Conditional Use Applications. The Site Development Plan shall provide the following;

1. A plan drawn to a scale identifying the location and dimension of the property and any existing buildings or other structures, and fence lines.
2. A topographical map of the site identifying site features, as applicable, identifying areas of the site with greater than fifteen percent (15%) average slope and areas of the site with greater than thirty percent (30%) average slope with contour lines, at an interval of two (2) feet, and other features of the site, including but not limited to areas of natural vegetation, tree stands, water courses, drainage ways.
3. The location and dimension of all proposed buildings.
4. All proposed Off-Street parking areas including egress and ingress and including areas for Off-Street parking during construction.

5. The location of roads and utilities that are now serving the site or will be required to serve the site.
6. A Storm Water Plan.
7. A Landscape Plan identifying the treatments, including type and number of plant materials proposed for all areas not occupied by buildings and parking and identifying proposed screening and buffering treatments and a calculation of the amount of pervious and impervious area.
8. A Construction Plan identifying the phases of construction, a construction schedule, and a list of all permits necessary for the proposed use.
9. A Service Impact Assessment which shall include, but not be limited to, identifying requirements for Culinary Water, Sanitary Sewer, and anticipated traffic volumes, proposed accesses, and Utah Department of Transportation requirements and permits, as applicable.
10. Building Plans and Signs. The proposed material and colors of all exterior building facades shall be identified as well as all proposed site signage including the height and size of all signs. All signage must comply with the requirements of Section 1018 of this Ordinance.
11. Commercial Site Plans shall also be required to provide other materials identified in Section 1013(1) of this Ordinance.

**Section 804 Conditions for Approval:**

The Commission may impose such requirements and conditions with respect to location, construction, maintenance, operation, site planning, traffic control and time limits, and other items for the Conditional Use permit as deemed necessary for the protection of adjacent properties and the public interest. The Commission may require guarantees or other evidence that such conditions will be met and complied with.

These conditions may include:

1. That the site will be suitably landscaped and maintained and that the design, setbacks, fences, and buffers are adequate to protect adjoining property and preserve and/or enhance the appearance and character of the area.
2. That all buildings and structures are designed to add to the overall quality of the area.
3. The provision of parking facilities, including vehicular ingress and egress and loading and unloading areas.

4. The provision of required road and street dedication and improvements, and adequate water supply, sewage disposal and fire protection, and other improvements, facilities and services.
5. Conditions required for the mitigation of possible nuisance factors such as noise, vibrations, smoke, dust, dirt, odors, gases, noxious matter, heat, glare, electro magnetic disturbances, and radiation.
6. The regulation of operating hours for activities affecting normal schedules and functions.
7. The regulation of signs.
8. Identifying a time for regular review and monitoring, as determined necessary, to ensure the use continues to operate in compliance with all conditions and requirements of approval.
9. Such other reasonable conditions determined necessary by the Commission to allow the operation of the proposed conditional use in compliance with the requirements of this Ordinance.

**Section 805 Required Findings for Approval or Denial of a Conditional Use Application by the Commission:**

1. As required by the Act, if the Commission finds that the proposed Conditional Use Application complies with all the requirements of this Ordinance, as adopted, and all other Land Use Ordinances and requirements, as applicable, with or without reasonable conditions being proposed, or may be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed Conditional Use, the Conditional Use shall be approved. Following the approval of a Conditional Use Application by the Commission, with or without reasonable conditions, the Applicant may apply for other necessary approvals, licenses, or permits necessary to implement the Conditional Use Application approval.
2. As required by the Act, if the Commission finds that the reasonably anticipated detrimental effects of a proposed Conditional Use cannot be substantially mitigated by the proposal or by the imposition of reasonable conditions to achieve compliance with this Ordinance, as adopted, and all other Land Use Ordinances and requirements, as applicable, the Conditional Use Application may be denied. If a Conditional Use Application is denied by the Commission, no other approvals, licenses, or permits shall be approved that are related to the proposed Conditional Use.



**Section 806 Revocation or Modification of a Conditional Use Permit:**

If there is cause to believe that grounds exist for revocation or modification of an approved conditional use permit, the Commission shall conduct a public hearing on the question of modification or revocation of a conditional use permit granted under the terms of this Ordinance.

A conditional use permit may be modified or revoked by the Commission if the Commission finds that one or more of the following conditions exists:

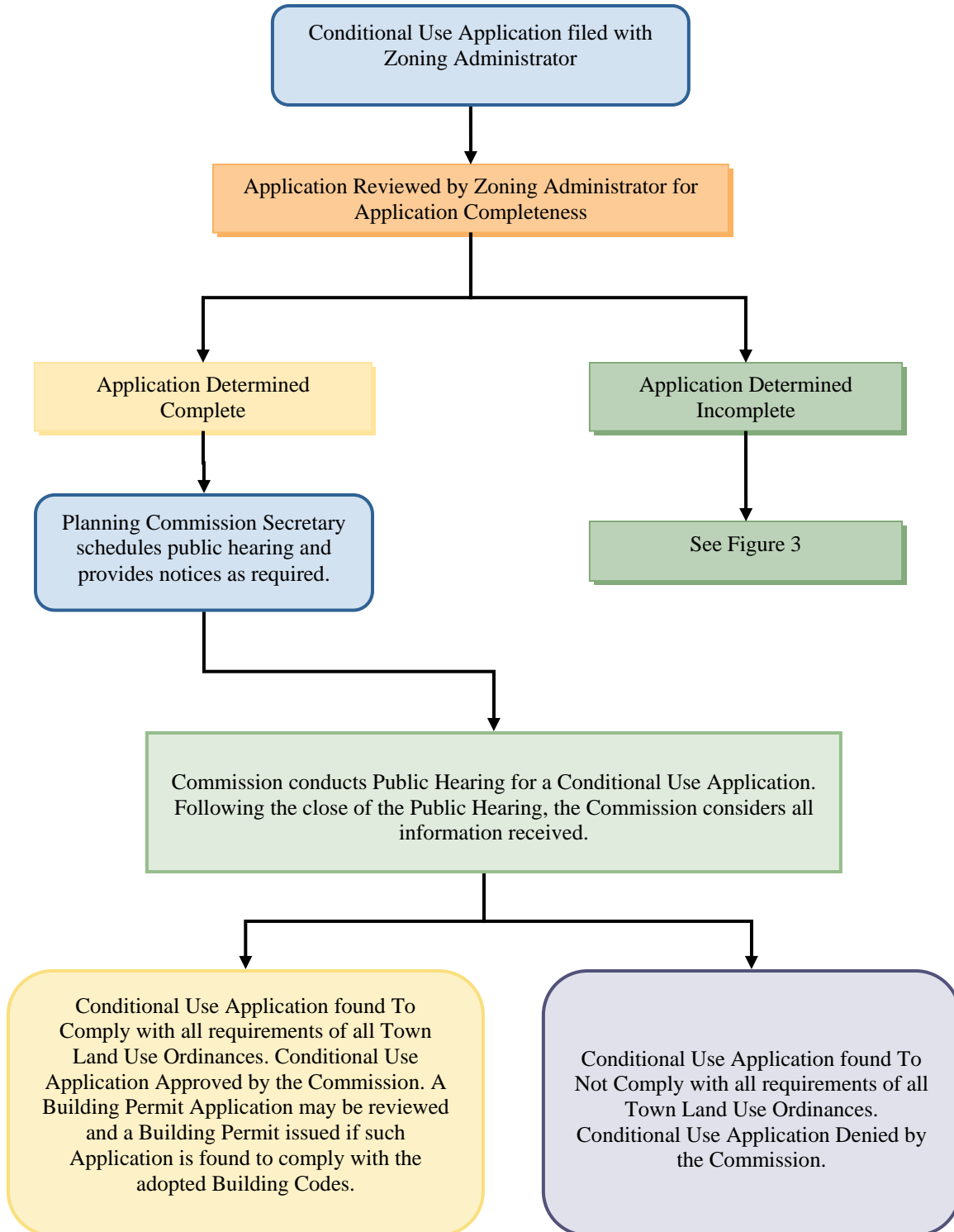
1. The conditional use permit was obtained in a fraudulent manner.
2. The use for which the conditional use permit was granted has now ceased for at least six (6) consecutive calendar months.
3. One or more of the conditions of the conditional use permit has not been met.

Additionally, the Commission, following a public hearing, may modify the conditions under which a conditional use permit was originally approved if the Commission finds that the use or related development constitutes or is creating a nuisance.

**Section 807 Use of RV or Mobile Home for Living Purposes During Period of Construction of Permanent Dwelling:**

Any person or entity who has obtained all permits and complied with all requirements necessary for the construction of a permanent dwelling on a lot in Boulder Town and who is in the process of constructing a permanent dwelling on such lot may obtain a Conditional Use Permit allowing the user to reside in an RV or a mobile home on the lot where the permanent dwelling is being constructed for a period of up to one (1) year. The RV or mobile home must be connected to water and sewer service which has the approval of the Town of Boulder and by Southwest Utah Public Health Department. The Town of Boulder may extend the period of conditional use after one (1) year only upon being provided proof that substantial progress is being made on the construction of the permanent dwelling and evidence being presented that construction will be completed within a reasonable time. (Added by the Adoption of Ord. #46B – passed 12/3/2003).

**FIGURE 5**  
**CONDITIONAL USE APPLICATION REVIEW PROCEDURES**



## **CHAPTER 9 TEMPORARY USE**

### **Section 901 Purpose:**

The following regulations are provided to accommodate those uses that are identified as a Temporary Use in the Table of Uses (Table 1). The character and nature of a Temporary Use shall be such that conditions may be required to protect adjacent properties and the general health, safety, and welfare of citizens of the Town.

### **Section 902 Applications. Zoning Administrator Authorized to render Temporary Use Decisions:**

All requests for a Temporary Use permit shall be made on the application form provided by the Town. The Zoning Administrator is authorized to render a final decision on the issuance of a Temporary Use permit upon a finding of compliance with all requirements of this Ordinance, the adopted Building Code, and all Health Codes, as applicable.

### **Section 903 Allowed Temporary Uses:**

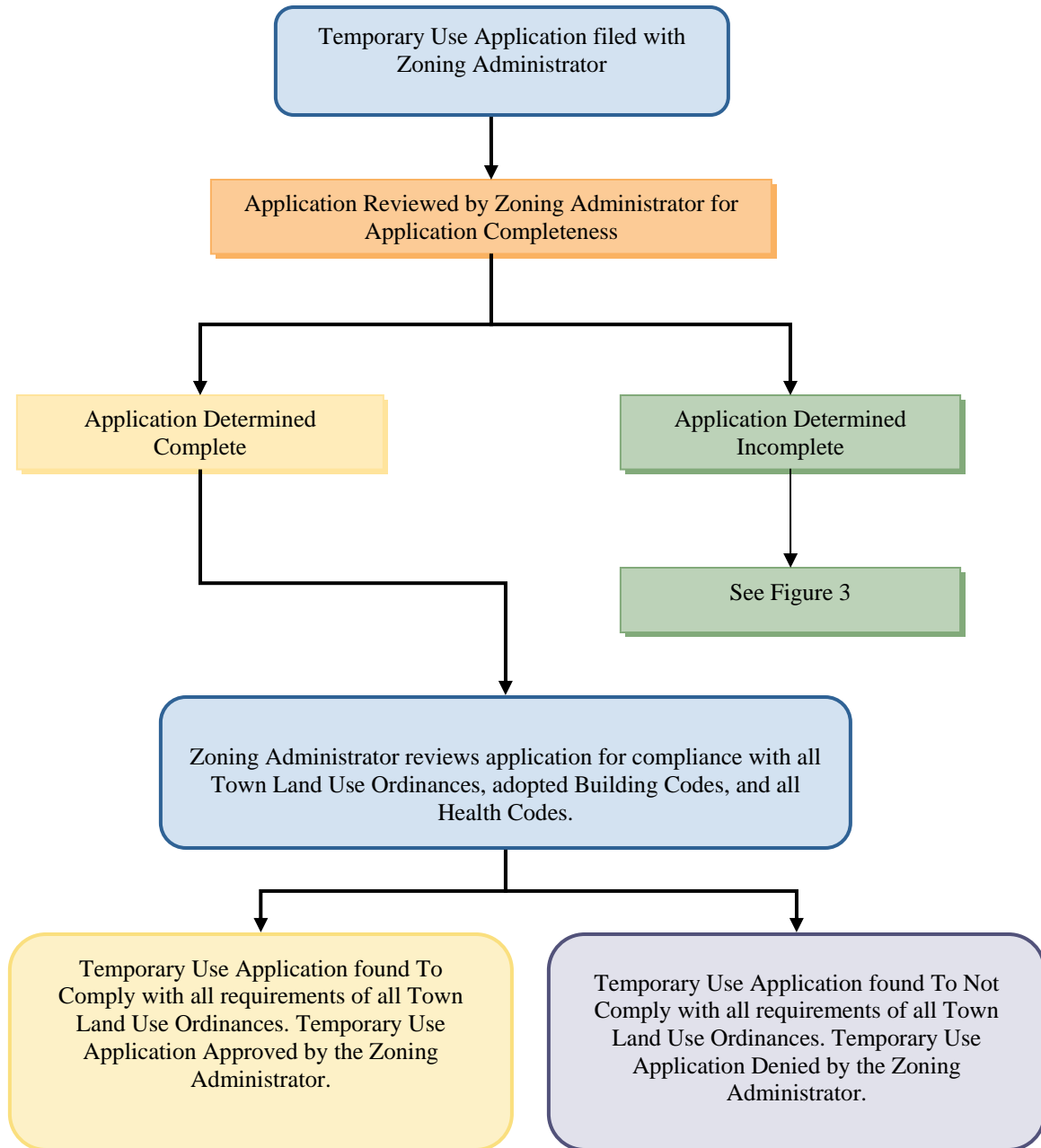
The following uses and activities may be permitted by the Zoning Administrator with a finding that the Temporary Use will be conducted in compliance with all the requirements of this Ordinance:

1. A use proposed to be established for a maximum period of 120 days, such use being discontinued after the expiration of 120 days. (Amended by the Adoption of Ord. # 46A – passed 1/10/2003).
2. Special Events, for a period not to exceed 45 days, including;
  - a) Non-Profit Fund-raising Activities conducted by a registered Non-Profit Organization.
  - b) Organized Events, Educational, Historic, Religious and Patriotic Displays or Exhibits, including concerts, athletic or recreational events, festivals, street fairs, arts and crafts fairs, and other organized events.

### **Section 904 Exemptions:**

All family gatherings shall be exempt from the requirements of a Temporary Use permit and shall not require a Temporary Use permit.

**FIGURE 6**  
**TEMPORARY USE APPLICATION REVIEW PROCEDURES**



## **CHAPTER 10 GENERAL AND SUPPLEMENTARY DEVELOPMENT STANDARDS**

### **Section 1001 Establishment of Development Standards:**

The purpose of general and supplementary property development standards is to protect the general health, safety, and welfare of the citizens and property owners of Boulder Town and to implement the Boulder Town General Plan. Compliance with all general and supplementary standards as well as all other requirements of this Ordinance and all other applicable requirements of other Town Ordinances shall be required for the issuance of any required development approval, license, or permit.

### **Section 1002 General Requirements:**

#### **1. All Uses, Buildings, and Structures to Comply with Zoning District Requirements.**

Every building or structure hereafter erected, reconstructed, structurally altered, enlarged or moved, and every building, structure, premises or land used, rearranged, designed or intended for any use shall be built or used only as allowed by the zoning district in which such building, structure, land or use is located.

#### **2. Allowed Uses.**

All uses allowed within the Town, either as a permitted, conditional, or temporary use, are identified in the Table of Uses (Table 1).

#### **3. Prohibited Uses.**

All uses of land and other activities not specifically allowed as a permitted, conditional or temporary use as identified in the Table of Uses are prohibited uses and are uses not allowed in Boulder Town.

#### **4. Allowed Minimum Use of Legal Lots.**

Nothing in this Ordinance shall be construed to prevent the use for one (1) single family dwelling on any legally created lot or parcel of land, provided that such lot or parcel of land is located in a Zoning District which permits single family dwellings, and was a legal lot ~~that~~ at the time of adoption of this Ordinance and provided further that all proposed construction can qualify for the issuance of a building permit as required by the International Building Code (IBC).

#### **5. Subdivision and Sale of Property.**

No person shall subdivide any parcel of land located wholly or in part within Boulder Town for development purposes unless the parcel was legally created as required by the Boulder Town Subdivision Ordinance and all other applicable laws and requirements of the State of Utah.

6. Lots in Two (2) or more Districts.

Where a lot of record at the time of passage of this Ordinance or any amendments thereto falls into two or more districts, the more restrictive zoning district provisions shall apply.

7. Required Yard Areas for One Building Only.

No required yard or setback area for any building or lot required for the purpose of complying with the provisions of this Ordinance shall be considered as providing the required yard or setback for any other building or lot.

8. Every Dwelling, Nonresidential Building and all other Structures to be on a Lot.

All buildings and structures shall be located and maintained on a recorded lot.

9. Required Yards to be Unobstructed - Exceptions.

- a) All yard areas are required to be open to the sky and unobstructed except for permitted and approved accessory buildings and for projection of sills and other ornamental features and unenclosed steps and unwallled stoops, and porches; provided that all buildings or parts thereof comply with the setback requirements of the zoning district in which they are located; and
- b) Walls and fences complying with the requirements of this Ordinance or meet the conditions of a development approval.

10. Construction in Sensitive Areas Prohibited.

- a) No building or structure, except for a required public utility, shall be constructed on areas determined to be sensitive. For the purposes of this Ordinance, sensitive areas are defined and identified as:
  - i) areas of slope with an average 30% grade, or greater.
  - ii) flood channels as identified by a Federal or State agency.
  - iii) jurisdictional wetlands as identified by the U.S. Army Corps of Engineers.

**Section 1003 Nonconforming Lots Prohibited:**

No lot which does not conform to the zoning district requirements in which it is located shall be created for the purpose, whether immediate or future, for any building, use, or development allowed by this Ordinance.

**Section 1004 Sale or Lease of Required Space Prohibited:**

No area needed to meet the lot width, area, setback or other requirements of this Ordinance for a lot or building may be sold or leased separate from such lot or building.

**Section 1005 Number of Buildings on a Lot:**

Every building or structure shall be on a "lot" as defined in this Ordinance.

**Section 1006 Frontage Required:**

Every lot 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.

**Section 1007 Fences and Walls:**

Fences and walls shall not exceed six (6) feet in height.

**Section 1008 Exceptions to Height Limitations:**

Steeple, flagpoles, chimneys, water tanks, wireless or television masts, silos, barns, or similar structures may be erected above the height limits required by this Ordinance, but no space above the height limit shall be allowed for the purpose of providing additional floor space.

**Section 1009 Water and Sewage Requirements:**

As required by this Section, all applications for building permits shall be accompanied by the appropriate permits or letters of approval from an approved water system, the Southwest Utah Public Health Department, or the Utah Department of Environmental Quality, as applicable, prior to approval.

1. Water Requirements.

In all cases where a proposed building or proposed use will require culinary water (drinking water) and the proposed building or proposed use will not be connected to an existing public water supply, approval for the culinary water system must be obtained from the Southwest Utah Public Health Department or the Utah Department of Environmental Quality, as applicable.

For any building or use with more than 14 culinary water connections, or where 25 or more people will be served 60 or more days a year, approval of the culinary water system must be obtained from the Utah Department of Environmental Quality. For any building or use with fewer than 14 culinary water connections, or where fewer than 25 people will be served, or where 25 or more people will be served fewer than 60 days a year, approval of the culinary water system must be obtained from the Southwest Utah Public Health Department.

2. Sewage Requirements.

In all cases where a proposed building or proposed use will generate wastewater, approval for wastewater disposal shall be obtained from the Southwest Utah Public Health Department or the Utah Department of Environmental Quality, as applicable.

For any building or use where an individual wastewater disposal system (septic system) is proposed, of less than 5,000 gallons of wastewater flow per day, approval shall be obtained from the Southwest Utah Public Health Department. For any building or use where a large wastewater disposal system is proposed with greater than or equal to 5,000 gallons of wastewater flow per day, approval shall be obtained from the Utah Department of Environmental Quality.

**Section 1010 Effect of Official Map:**

Wherever a required front yard faces on a road or street, the depth of such front yard shall be measured from the mapped street line provided by the official map.

**Section 1011 Noxious Weeds:**

All property owners shall comply with the requirements of the "Utah Noxious Weeds Act," Title 4, Chapter 17, Utah Code Annotated, 1953, as amended.

**Section 1012 Site Lighting:**

1. All Buildings and grounds, including residential buildings, may be illuminated by such lighting fixtures as the owner of the property may determine, provided that the lighting fixtures are equipped with shields, shrouds, lenses, or other devices that concentrate the illumination only upon the building and grounds of the owner and minimize light trespass to adjoining properties.
2. Indoor Lighting. Indoor lighting shall not be provided or constructed in such a fashion as to provide lighting for any outdoor areas.



## **Section 1013 Supplementary Requirements:**

### **1. Commercial Design Standards.**

The purpose of Commercial Design Standards is to encourage commercial development compatible with the character of Boulder Town and which will discourage unattractive commercial areas. The following design standards shall be required of all uses and buildings located within the Commercial (C) District.

- a) **Open Space Plan.** An open space plan shall be provided with all applications for development approval proposed in the Commercial (C) District identifying:
  - i) All topographical features of the site including, but not limited to, water ways, areas of vegetation, areas of slopes exceeding 15% and areas of slopes exceeding 30%, existing agricultural lands, and geological, archeological and cultural features.
  - ii) Areas proposed to remain as open space. For the purposes of this Section “Open Space” shall mean all areas not covered by buildings, parking areas, access roads and streets, and other hard surfaced areas.
  - iii) A landscape plan shall be provided identifying the number, location, and type of plants and materials to be used for open space treatments and the arrangement of those materials and plants, and how the particular type of landscape design will be maintained.
  - iv) Existing features which add natural value or historical amenities to the community shall be retained. Buildings shall be sited in such a manner that preserves scenic views. Existing vegetation should also be retained, and vegetation protection shall be required during construction. Existing features such as watercourses, rivers, irrigations works, wetlands, historic sites, sensitive lands, important vistas, and other site assets shall be preserved. All significant trees shall be preserved where possible and shall be welled and protected against changes of grade.
- b) **Location of Parking Areas.** No required or proposed off-street parking areas shall be located within any required front yard setback area.
- c) **Access.** There shall be an approved access with a minimum width of 22 feet.
- d) **Storm Drainage.** The installation of curb and gutter is prohibited but may be required if determined necessary by the Town.

- e) **Recreational Vehicle Parking.** When the commercial use will provide services to the traveling public, areas for recreational vehicle parking shall be provided.
- f) **Storm Water.** All storm water shall be required to be retained on-site. Surface flows of storm water from the property onto any public street or onto any adjacent property shall not exceed what has historically flowed from the property before the commercial use is established.
- g) **Building Design.** The design of all building facades shall be consistent with the natural and/or historical designs currently within the Town. The Planning Commission shall, if necessary, request the developer to provide an analysis of how a particular design is compatible and complementary to the existing or historical design pattern of the Town. The use of shapes, color, and other characteristics that cause new buildings to call excessive attention to themselves and create a jarring disharmony shall be avoided.
- h) **Drive Up Facilities.** Drive-up windows or Drive Through facilities shall not be allowed on any building or structure within the Commercial (C) District.

## **2. Supplementary Requirements for Residential Facilities for Elderly Persons.**

- a) **Residential Facilities for Elderly Persons Proposed to Be Located Within Zoning Districts Allowing Exclusively Single Family Dwellings.**
  - i) A Residential Facility for Elderly Persons, proposed within a zoning district(s) allowing exclusively single family dwellings, shall be considered as conditional use by complying with the following requirements:
    - (1) A residential facility for elderly persons may not operate as a business. A residential facility for elderly persons may not be considered a business because a fee is charged for food or for actual and necessary costs of operation and maintenance of the facility.
    - (2) Be owned by one of the residents or by an immediate family member of one of the residents or be a facility for which the title has been placed in trust for a resident.
    - (3) Be consistent with existing zoning of the desired location, including zoning district requirements for minimum area, yards, off-street parking. The type of residential dwelling must be a single-family dwelling.
    - (4) Be occupied on a 24-hour-per-day basis by eight (8) or fewer elderly persons in a family-type arrangement.

- b) In considering the Conditional Use request, the Town shall only consider or require the following conditions, as allowed by Section 10-9a-517, Utah Code Annotated, 1953, as amended:
  - i) the facility meet each building, safety, land use, and health ordinance requirement applicable to similar dwellings;
  - ii) adequate off-street parking space be provided;
  - iii) the facility be capable of use as a residential facility for elderly persons without structural or landscaping alterations that would change the structure's residential character;
  - iv) no person being treated for alcoholism or drug abuse be placed in a residential facility for elderly persons; and
  - v) placement in a residential facility for elderly persons is on a strictly voluntary basis and not a part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional facility.
- c) The use granted and permitted by this Section is nontransferable and terminates if the structure is devoted to a use other than as a residential facility for elderly persons or if the structure fails to comply with applicable health, safety, and building codes.
- d) Discrimination Prohibited. All applications for a permit to establish a residential facility for elderly persons shall be considered against the review and approval criteria, as provided by this Section only, and shall not be based on the age of the facility's residents.

**3. Supplementary Requirements for Residential Facilities for Persons with Disabilities.**

- a) Types of Residential Facilities for Persons with Disabilities. A residential dwelling for four (4) or more persons as licensed by the Department of Human Services, Division of Services For People with Disabilities.
- b) Residential Treatment Facilities and Program. A Residential Treatment Facility or Residential Treatment Program, as licensed and monitored by the State of Utah Department of Human Services, under the Core and Categorical Rules for Treatment.
- c) Day Treatment Facility and Program. A Day Treatment Facility or Day Treatment Program, as licensed and monitored by the State of Utah Department of Human Services, under the Core and Categorical Rules for Treatment.

- d) Outpatient Treatment Facility and Program. An Outpatient Treatment Facility or Outpatient Treatment Program, as licensed and monitored by the State of Utah Department of Human Services, under the Core and Categorical Rules for Treatment.
- e) Residential Support Facility and Programs. A Residential Support Facility or Residential Support Program, as licensed and monitored by the State of Utah Department of Human Services, under the Core and Categorical Rules for Treatment.
- f) Social Detoxification Facility and Programs. A Social Detoxification Facility or Social Detoxification Program, as licensed and monitored by the State of Utah Department of Human Services, under the Core and Categorical Rules for Treatment.
- g) Intermediate Secure Treatment Facility and Programs for Minors. An Intermediate Secure Treatment Facility for Minors or Intermediate Secure Treatment Program for Minors, as licensed and monitored by the State of Utah Department of Human Services, under the Core and Categorical Rules for Treatment.

**4. Compliance with Health Codes, Building Codes, Fire Codes, and Zoning District Requirements.**

- a) No Residential Facility for Persons with a Disability shall be established unless:
  - i) It is proposed in an existing building that complies with all Building, Fire, and Health Codes, as adopted, applicable to similar structures, and all requirements of this Ordinance.
  - ii) It is proposed in a new building that complies with all Building, Fire, and Health Codes, as adopted, applicable to similar structures, and all requirements of this Ordinance.
  - iii) The existing or proposed building complies with all requirements of the Zoning District in which it is located, or proposed, and applicable to similar structures.
- b) Maximum Number of Occupants (Consumers and Staff).
  - i) For any existing building, or any new building, proposed to be used for a Residential Facility for Persons with a Disability, the building, or building plans shall be reviewed by the Building Official, considering the Categorical Standards for physical facilities, as established by the State of Utah Department of Human Services. Following this review the Building Official shall determine and establish the maximum number of persons allowed to reside within the Facility.
- c) State of Utah Department of Human Services License.

- i) At the time of application for a Conditional Use permit to establish a Residential Facility for Persons with a Disability, or within 45 days following approval of a Conditional Use permit to establish a Residential Facility for Persons with a Disability, the owner or provider shall provide to the Town Clerk evidence that the Facility is licensed by the State of Utah Department of Human Services for the type of Facility being considered by the Town. The Planning Commission shall condition any Conditional Use approval on the presentation of evidence that the Facility is licensed by the State of Utah Department of Human Services, as required by this Section. Failure to provide such evidence shall be grounds for the Town to invalidate any existing or pending Town approvals.
  - ii) Continued Compliance with the Licensure Requirements of the Department of Human Services.
  - iii) The responsibility to license programs or owners or providers that operate Residential Facility for Persons with a Disability, as well as require and monitor the provision of adequate services to consumers residing in these facilities, shall rest with the State of Utah Department of Human Services.
- d) Conditional Use Permit to Operate a Residential Facility for Persons with a Disability Nontransferable.
- i) A permit to operate a Residential Facility for Persons with a Disability, as authorized by this Section, is nontransferable and shall only be valid to the owner or provider identified on the application authorizing the operation of the Facility, and as identified as the owner or provider as licensed by the State of Utah Department of Human Services, Division of Services for People with Disabilities.
  - ii) A Conditional Use permit to operate a Residential Facility for Persons with a Disability terminates if the building is devoted to another use or if the building fails to comply with any of the standards established herein.
- e) Reasonable Accommodations.
- i) The Planning Commission shall have the authority, in reviewing an application for a Conditional Use permit to establish and operate a Residential Facility for Persons with a Disability, to modify the requirements contained herein if the Commission determines such modifications are necessary in order to make a reasonable accommodation to afford persons residing in such facilities equal opportunity in the use and enjoyment of the facility.

#### **Section 1014 Hazardous Waste - Purpose:**

These provisions are established for the purpose of prohibiting commercial facilities constructed for the purpose of importation for treatment, storage, or disposal of hazardous wastes or substances (collectively "Commercial Hazardous Industry") within Boulder Town and to avoid the potential social, health, and environmental impacts and risks associated with Commercial Hazardous Industry.

Industrial uses involved in the importation for treatment, storage, or disposal of hazardous waste or substances ("Commercial Hazardous Industry") either for profit or non-profit purposes shall be prohibited in Boulder Town to ensure the prevention of adverse impacts on the environment, persons, crops, animals, or wildlife. Boulder Town prohibits the following activities from occurring within the municipal boundaries of the Town:

1. The processing, handling, storage, treatment, and disposal of fissionable, radioactive, medical, or nuclear waste or materials contaminated by such substances.
2. The siting of commercial hazardous industries constructed for the purpose of importation, treatment, storage, or disposal of hazardous waste or hazardous substances and materials.

#### **Section 1015 Public Uses and Utilities:**

For the purposes of providing required public uses and public utilities in an efficient manner and at locations determined appropriate and necessary to meet the needs of Boulder Town, the following requirements shall apply to the location and establishment of public uses and utilities, as defined, and located within the Town.

1. The Minimum Lot Size Required Nonresidential Uses, as provided by Table 2 – Table of Development Standards, shall not apply to Public Uses and Public Utilities, as defined herein, except:
  - a) The Planning Commission in rendering a final decision on the issuance of a Conditional Use Permit, as authorized by Section 802 herein, shall:
    - i) Require the minimum lot size for a Public Use or Public Utility to meet the minimum lot size required of the Zoning District in which it is proposed to be located; or
    - ii) Require a lot size sufficient to ensure all requirements of this Ordinance are met, including but not limited to, all requirements of Table 2 – Table of Development Standards, except minimum lot size as may be modified by this Section, and the requirements of Section 804 – Conditions for Approval and Section 805 – Findings and Conditions, are met. (Added by the Adoption of Ord. #46C – passed 6/23/2005).

**Section 1016 Recreational Vehicle Campgrounds:**

1. Purpose. To provide for the development of successful and well cared for RV and campground parks within Boulder Town that are complementary to the rural atmosphere of the Town and that enhance the value of surrounding properties and that are consistent with the Boulder Town General Plan.
2. Conditional Use:
  - a) A Conditional Use Permit for a recreation vehicle (RV) park or campground facility must be issued in accordance with this ordinance before such a facility may be constructed in any zone. Additionally such uses must be consistent with the Zoning Ordinance of Boulder Town.
  - b) Each facility shall be built in accordance with the provisions of the Conditional Use Permit as well as other related laws of the Town and the State of Utah as they apply.
  - c) Prior to construction, the Developer and the Designing Engineer shall agree in writing with the conditions set forth for the construction of the project, and upon completion, certify in writing that such conditions have been complied with.
  - d) It shall be assumed the Developer and Project Engineer will ensure that the project will be built as agreed. However, if the Planning Commission or building administrator finds at any time that the conditions agreed to have not been followed, a letter of correction stating the concerns shall be sent to the Developer requesting corrective action and verification from the Project Engineer before construction of the project will be continued or before operation of the RV Park will be allowed.
  - e) Once a corrective action plan has been approved by the Planning Commission or building administrator, the Chairman shall sign the plan, and a written copy of the plan shall be provided to the developer authorizing the project to proceed as agreed. If agreement cannot be reached, the Conditional Use Permit shall be terminated until further notice.
  - f) All applications must include written approval by the Southwest District Health Department approval for the planned facilities.
3. Definitions:
  - a) Conditional Use Permit. As defined in the Zoning Ordinance of Boulder.
  - b) Design Engineer. An Engineer licensed in the State of Utah and employed by the developer to do engineering design work for RV Parks.

- c) Developer. The person or entity authorized to develop the RV park. This may be the landowner or other legally authorized individual or entity. This person or entity shall make application to the Town, pay the fees, and be responsible to ensure that all work is done as approved.
  - d) Developer Agreement. An agreement signed by the Developer and/or property owner that all provisions of the Conditional Use Permit will be observed and that the park will be built as approved.
4. Public Notice. Each Developer shall be required to provide formal Notice in writing to all adjacent property owners within 300 feet of the project property prior to application. The Development Notice shall be used to provide notification to each neighboring property and a copy of each notice sent shall be required upon application to the Planning Commission for review.
5. Park Area and Space Density:
- a) Each RV park must be located on a parcel of property that is a minimum of five (5) acres in size. No more than five (5) designated RV pads and two (2) tent sites per acre is allowed within the park.
6. Property Development Standards. The following standards shall apply to each Recreation Vehicle Park. Plans and elevations for the park and any buildings or structures proposed for location therein shall be submitted with the application for a Conditional Use Permit according to the Zoning Ordinance of Boulder Town. Said plans shall be in conformance with the following general development standards:
- a) RV Site Requirements. All designated RV pads shall be clearly marked and numbered for identification and shall meet the conditions set forth in this ordinance and in the Conditional Use Permit.
  - b) Off-Street Parking. Each RV site shall have adequate space provided for tenants to park their vehicle off the park streets.
    - i) The parking pads shall be all weather surface (gravel or better);
    - ii) Each RV site shall provide sufficient space so that the parking, loading or maneuvering of vehicles and trailers will not necessitate the use of any public street, sidewalk, right of way, or any private property not owned by the park;



- iii) A minimum of two (2) common parking spaces for each ten (10) RV or camping sites shall be provided in the park. These spaces shall be in addition to the required off-street parking.
- c) Landscaping: Landscaping shall be provided in the park consistent with the landscaping requirements of the Zoning Ordinance. The following landscaping provisions shall apply to all RV or camping parks.
  - i) All open areas except driveways, parking areas, walk ways, utility areas and patios shall be maintained with landscaping in accordance with a detailed landscaping plan to be approved as a part of the Conditional Use Permit.
  - ii) Approved landscaping shall be planted along the perimeter of the park as required by the Conditional Use Permit.
  - iii) Water conservation shall be considered in the use of landscaping.
- d) Ongoing Park Maintenance. As a condition of the Conditional Use Permit, each park shall be kept in safe and attractive repair and maintenance to avoid hazard to health, safety, and the welfare of the Town and the tenants of the park.
- e) Tent Sites. Each park may provide for tent camping areas. Each tent site shall have access to a potable water outlet, tables as needed, and safe outdoor cooking areas as per the prevailing fire code and conditions.
- f) Perimeter Screening. Perimeter screening shall be incorporated in the park plan that is approved by the Planning Commission and is consistent with the surrounding natural area and provides needed visual and sound barrier to minimize impacts on neighboring properties. Complementary trees may be installed along the perimeter to add to the effects of the barrier.
- g) Park Streets. Park streets shall provide for convenient and safe traffic circulation as well as access for emergency vehicles.
  - i) Entrance to the park from the public roads shall be a minimum of 24 feet in travel surface and provide for safe ingress and egress of intended recreational vehicles.
  - ii) Interior park streets shall be a minimum of 12 feet in travel surface for one-way streets and 24 feet for two-way streets and provide for safe passage of park tenants and emergency vehicles throughout the park.

- iii) Park streets shall be engineered for drainage with all weather surfaces of gravel or better.
- iv) All park streets shall be lighted according with the requirements of the Zoning Ordinance lighting regulations.
- h) Setbacks. The park shall be designed in such a way as to keep RV pads and park buildings back from the perimeter property line according to the zoning requirements outlined in the Zoning Ordinance.
- i) Recreation Areas. Common open areas for recreation that are convenient and accessible for all park patrons are recommended.
- j) Park Office. Each park shall provide a permanent structure for office use. Such building may include a single-family dwelling for the use of the park owner or manager.
- k) Restroom and Shower Facilities. Public restrooms, including toilets, sinks and showers, shall be provided within the park according to health requirements.
- l) Telephone. The park shall contain at least one (1) public telephone for park tenant use.
- m) Fuel Dispensing Equipment. All fuel dispensing equipment shall comply with state and federal regulations governing their construction and use.
- n) Storage Areas. Areas for the storage of vehicles and other items shall be the responsibility of the park and shall be controlled by park policy to protect the health and safety of park tenants and surrounding properties.
- o) Removal of Wheels. Wheels and axles shall not be removed from RVs in the park except for emergency or temporary repairs.
- p) Generators. The park management shall not allow generators to be operated in the park.
- q) Fire Protection. Fire hydrants and fire protection devices shall be located throughout the park according to fire code and public safety requirements.
- r) Wastewater, Trash, and Drinking Water Stations.
  - i) Each park shall have facilities for providing potable water and the disposal of sewer waste that meets the standards of the local health department.

- ii) Those RV sites that provide for sewer, power, and water drops shall meet the requirements of the related agencies and utility companies.
  - iii) Appropriate garbage holding areas and disposal service shall be required.
7. RV Parks. Mobile Home Parks. Mobile Home Subdivisions: An RV park may be planned in conjunction with a mobile home park or mobile home subdivision, as long as the RV park is designed as a separate area and its tenants, activities and functions are kept separate and do not infringe on the operations of the mobile home park or subdivision.
8. Tenancy. The term of tenancy shall be controlled by the park owner in the interest of their business as long as health and safety standards are met, and the nature and character of the park is maintained within the conditions set forth in the Conditional Use Permit; but in no event shall a tenancy exceed a term of one hundred eighty (180)days in any 365-day period. (Added by Adoption of Ord. #51, passed on 11/5/2003).

**Section 1017 Recreational Type Vehicle as a Temporary Dwelling:**

1. Any owner of real property that is located within the town limits of Boulder or family member or guest of such owner may occupy as a dwelling an RV located on such property for a period of not more than 90 days accumulative in any given calendar year if one of the following conditions is met:
- a) The RV has working bathroom facilities properly connected to in-ground water and sewer which has been installed and inspected pursuant to the appropriate building permit for said water and sewer as authorized in the Boulder Town Building Code and in accordance with State Law and the provisions of Southwest Utah Public Health Department.
  - b) The RV with or without working bathroom facilities is parked within 100 feet of a dwelling located on the property which dwelling has working bathroom facilities hooked to a septic tank and drain field, and the bathroom facilities are continuously open and available to the occupant(s) of the RV; or
  - c) The RV has working self-contained bathroom facilities and is parked or stored on the real property, and is occupied only on an "occasional basis" not to exceed 90 days cumulatively in any calendar year.
2. In addition to complying with one of the three requirements in Subsection 1 above, the property owner must additionally comply with all of the following conditions:

- a) If a generator is used for electricity, the generator must not interfere with the quiet enjoyment of any other property owner;
  - b) The RV and the surrounding property must be maintained in a manner that does not violate any local ordinances or state laws relating to health or nuisance;
  - c) The RV must be occupied by the property owner, family members or guests of the owner strictly on a non-commercial basis;
  - d) The owner has obtained a non-fee permit for said occupancy from the Boulder Town Clerk.
  - e) Only two non-owner owned RV's may be located on the real property at any one time.
3. Nothing herein shall be deemed to authorize private property to be used as an RV park or trailer park and the sole intent of this amendment is to allow property owners, their families, and guests as described above to use an RV as a temporary means of inhabiting their property.
  4. As an exception to this Ordinance, any owner of real property may occupy an RV on the real property for a period of two weeks in any calendar year without obtaining a permit or complying with the provisions for sewer and water as required above so long as:
    - a) The RV does not discharge any effluent onto the owner's land or other lands;
    - b) The two-week exemption is utilized by the property owners, the owner's family, or other unpaid guests strictly on a noncommercial basis.
  5. All permits will be issued or renewed on an individual basis.
  6. The foregoing does not apply to Mobile Homes or any other dwellings occupied as permanent living quarters, all of which are classified as regulated dwellings. Any trailer of any type or motor coach incapable of locomotion on demand does not qualify as an "RV" for purposes of this Ordinance and cannot be used as a habitable dwelling without first complying with all provisions of the Boulder Town Ordinances and state law governing the health, safety and habitation of permanent dwellings.
  7. The foregoing does not apply to the exemption granted by Section 807.
  8. A violation of this

9. Section constitutes a Class C misdemeanor. This Section is also enforceable civilly by both a claim for injunction and damages. (Added by the Adoption of Ordinance 46D – passed on 8/4/2005).

**Section 1018 Signs:**

1. This Section is provided to:
  - a) Promote and protect the public health, safety, and welfare by regulating the location and size of signs;
  - b) Protect property values;
  - c) Enhance and protect the physical appearance of the Town;
  - d) Preserve the scenic and natural beauty and rural atmosphere;
  - e) Reduce sign clutter and advertising distractions and obstructions; and
  - f) Reduce hazards while providing procedures to enable local businesses to provide advertising.
2. **Exemptions:** The following signs shall be exempt from the requirements of this Section:
  - a) Residential Identification Signs. Provided such signs are not more than two (2) square feet in area and with any display limited to street numbers, street name, and the name of the resident(s) and provided such sign does not project beyond the property.
  - b) Traffic Warning and Regulation Signs. Signs for the purposes of traffic regulation and direction and the displayed message is solely for traffic regulation and directional information and is maintained by a public agency.
  - c) Church and Public Organization Signs. Provided such signs do not exceed eight (8) square feet in area. Such signs may include the display of official notices used by any court or public body or official, or the posting of notices by any public officer.
  - d) Window Signs.
  - e) Election Signs. Signs not exceeding two (2) feet by two (2) feet (2' x 2') and which conform to the Utah State Code for distance from any polling place, and which must be removed within one (1) week following an election. No election signage shall be placed

within, or on, any publicly owned land or right-of-way, and all election signs must be authorized by the property owner of the lands on which the election signage is placed.

- f) Real Estate Signs. Signs may be erected to advertise the sale, rent, or lease of property upon which said signs are placed and shall not exceed four (4) square feet in area. An additional directional sign not to exceed two (2) square feet is allowed on the nearest public road with the permission of the property owner when property for sale is not along a public road.
- g) Development Promotional Signs. One (1) development promotional sign may be placed on the premises of a subdivision or other land development project with four (4) or more lots or approved dwelling units. Said promotional sign may not exceed sixteen (16) square feet in area and shall be removed no later than thirty (30) days following the sale of all lots or units, provided no Development Promotional Sign shall be maintained for a period not to exceed two (2) years from the date of initial installation.
- h) Directory Signs. Where group occupancies in office buildings, commercial buildings, or industrial buildings are permitted, directory signs may be erected displaying the names of occupants of a building who are engaged in a particular profession, business, or industrial pursuit. Each listing shall be no larger than one (1) square foot of sign area.

### **3. Allowed Signs:**

The following signs, as defined herein, are allowed in Boulder Town with the approval of the Planning Commission or Zoning Administrator, as applicable.

- a) Free-standing signs.
- b) Building signs.
- c) Temporary signs.
- d) Directional signs as allowed by Section 5, herein.

### **4. Allowed Sign Standards:**

Table 1 identifies the sign standards and requirements for allowed signs as authorized herein.

**Table 1  
Allowed Signs and Sign Standards**

<b>SIGN STANDARDS</b>	<b>SIGN TYPE</b>		
	<b>FREE STANDING SIGNS</b>	<b>BUILDING SIGNS</b>	<b>TEMPORARY SIGNS</b>
Maximum Sign Area	16 square feet	32 square feet	16 square feet
Maximum Height	10 feet	No portion of a building sign shall extend above the wall to which it is attached	8 feet
Number of Allowed Signs	One (1) sign per property entrance	2 per building	One (1) per site
Location	All signs located so no part of the sign is within 2 feet of the property line and located so as to be outside any clear vision area	On existing or approved building	Shall not be attached to fences, trees, other natural features, utility poles and shall be located outside any clear vision area
Projection	Not applicable	Shall not exceed 12 inches (including all structural and other parts) from the wall	Not applicable

SIGN STANDARDS	SIGN TYPE		
	FREE STANDING SIGNS	BUILDING SIGNS	TEMPORARY SIGNS
Sign Lighting	All sign lighting must not cause a disturbance or distraction to surrounding properties or traffic and shall provide necessary shields, shrouds, lenses, or other devices that concentrate the illumination only upon the sign to protect the night sky and minimize light trespass to adjoining properties	All sign lighting must not cause a disturbance or distraction to surrounding properties or traffic and shall provide necessary shields, shrouds, lenses, or other devices that concentrate the illumination only upon the sign to protect the night sky and minimize light trespass to adjoining properties	Not allowed
Maximum Duration	Allowed as a permanent sign, if continued as required by this Ordinance	Allowed as a permanent sign, if continued as required by this Ordinance	Not to exceed 120 days
Fire Escapes	No sign shall be erected in such a manner to interfere with the use of any fire escape, exit, standpipe or obstruct any stairway, door, ventilator or window	No sign shall be erected in such a manner to interfere with the use of any fire escape, exit, standpipe or obstruct any stairway, door, ventilator or window	No sign shall be erected in such a manner to interfere with the use of any fire escape, exit, standpipe or obstruct any stairway, door, ventilator or window
Utility Lines	No sign shall be erected with less horizontal or vertical clearance than required by the requirements of the utility owner or provider	No sign shall be erected with less horizontal or vertical clearance than required by the requirements of the utility owner or provider	No sign shall be erected with less horizontal or vertical clearance than required by the requirements of the utility owner or provider



SIGN STANDARDS	SIGN TYPE		
	FREE STANDING SIGNS	BUILDING SIGNS	TEMPORARY SIGNS
Approval Procedure	Conditional Use approved by Planning Commission	Conditional Use approved by Planning Commission	Approved as a Temporary Use by Zoning Administrator

**5. Directional Sign.**

Notwithstanding Section 1018(4), one (1) directional sign location may be allowed at each corner of the intersection of the Town’s two major thoroughfares (i.e. Highway 12 and the Burr Trail), for the purposes of informing the public of sites and services off Highway 12, accessible from the Burr Trail, and meeting the following directional sign requirements:

- a) The total area of all directional signs allowed at each corner (directional sign location) shall not exceed thirty-six (36) square feet.
- b) The co-location of directional signs may be allowed, provided the dimensions of each separate sign does not exceed five feet in length by sixteen inches in width (5' x 16") and the total area of all signs does not exceed thirty-six (36) square feet at one (1) directional sign location.
- c) No portion of any co-located directional sign shall exceed sixteen inches wide by five feet in length (16" x 5').
- d) All directional signs shall be complementary to other allowed signs at the location in material, color, size and style.
- e) The Boulder Town Planning Commission must determine that each directional sign meets all applicable requirements of this Ordinance prior to being established.
- f) No business, service, or other attraction may be listed on more than one (1) directional sign and may not be listed on more than one (1) co-located directional sign.

**6. Required Approval Procedures, Application Requirements for Allowed Signs:**

- a) All permanent Free-standing signs and Building signs authorized by this Ordinance shall be considered a Conditional Use and shall be considered by Boulder Town Planning

Commission, as required by Chapter 8, Boulder Town Zoning Ordinance, unless the sign is a temporary sign, as provided herein.

- b) All applications for a Free-standing sign or a Building sign shall comply with the requirements for a Conditional Use Permit, as applicable, and as required by Chapter 8, Boulder Town Zoning Ordinance. A sign application shall be accompanied by the necessary application fee and a \$10 refundable photograph deposit, as required by Section 1018(7) herein.
- c) All Temporary signs authorized by this Ordinance shall be considered a Temporary Use and shall be considered by the Boulder Town Zoning Administrator.
- d) All applications for a Conditional Use Permit or Temporary Use permit to establish a sign shall be accompanied by evidence of a valid business license, as required by Boulder Town, and as applicable.

**7. Sign Design Standards, Photograph Required:**

- a) All signs allowed by this Ordinance shall be found to complement the architectural style and scale of the building and should be designed as an integral architectural element of the building and site to which it principally relates. As an architectural element, the sign should reflect the period of architecture and be in harmony with building character and use.
- b) Upon the installation of all Free-standing and Building signs, the owner shall provide to the Town a photograph of the sign, of a size and quality sufficient to identify the size, design and color of the installed sign. Upon receipt of the sign photograph, the Town shall refund the photograph deposit to the applicant. If a sign photograph is not provided to the Town within thirty (30) days of the installation of the sign, the Town is authorized to take and have provided a sign photograph, with the photograph deposit being forfeited by the applicant and used by the Town to defray costs incurred to provide a sign photograph.

**8. Non-conforming Signs:**

All signs which have been made nonconforming by the adoption of this Ordinance are subject to the provisions of Chapter 13, Nonconforming Uses, Boulder Town Zoning Ordinance.

**9. Maintenance of Signs:**

No sign shall be erected or altered except as provided by this Ordinance. All signs shall be in a safe well-maintained condition and shall be free from any hazards, including but not limited to

faulty wiring and loose fastenings, and shall not represent a nuisance or pose threat to the public health, welfare and safety.

**10. Sign Condition and Unsafe Signs:**

- a) All signs, supporting structures, or portion thereof approved, installed and located on any lands within the boundaries of Boulder Town shall continue to be maintained in a safe condition and in accordance with all requirements and conditions of approval and all other requirements of applicable Town Ordinances and requirements.
- b) Any sign, supporting structure, or portion thereof declared unsafe by the Boulder Town Council shall be restored to a safe condition or removed by the owner within thirty (30) days following notice provided by the Town Council.

**11. Abandonment:**

Any sign that ceases to be used for the purposes for which it is permitted for a period of one (1) year shall be deemed to be abandoned and shall be removed by the owner within thirty (30) days following notice provided by the Town Council.

**12. Acquisition of Interests:**

Boulder Town may acquire title to signs by gift, purchase agreement, exchange, or eminent domain, and shall have the right to amortize nonconforming signs as permitted by state or federal law.

**13. Prohibited Signs:**

The following signs, as defined herein, shall be prohibited within the municipal boundaries of Boulder Town:

- a) All off-premises signs, including all billboards, but excluding directional signs as provided by Section 1018(5).
- b) All animated signs and wind signs.
- c) Roof Signs.
- d) Canopy (Marquee) Signs.
- e) Back-Lighted Signs.
- f) Neon Signs.

- g) All signs that emit sound or other emissions.
- h) All movable signs, including signs mounted or painted upon vehicles or trailers which are more or less permanently parked in any location for the sole purpose of calling attention to or advertising a business.

## **CHAPTER 11 BUILDING CODES AND PERMITS**

### **Section 1101 Purpose:**

The adoption and enforcement of building codes for all construction and uses located within the municipal boundaries of the Town, as adopted by the Town, serves the public interest by providing for structural stability, fire resistance, adequate ventilation and other safety and sanitary features.

### **Section 1102 Building Permit Required:**

1. Construction of any building, or any part thereof, shall not be commenced until a building permit is obtained from the Building Official, and as required by the International Building Code (IBC) and all other Codes, unless exempt by state law, including agricultural buildings to the extent exempted by the provisions of §58-56-4, U.C.A..
2. Applicants for a building permit shall submit building plans and a site plan complying with the requirements of the International Building Code (IBC), all other Codes and this Ordinance prior to obtaining issuance of a building permit. The applicant for a building permit shall proceed only in accordance with the approved building permit.
3. Prior to issuance of a building permit, the applicant may be required to post a bond or provide other financial security in such form and sum as required by the Zoning Administrator, and approved by the Town Attorney, with sufficient surety running to the Town to offset any costs or expenses associated with construction activities on and off the site.
4. For any construction exempt from the requirement for a Building Permit, as allowed by State law, the Building Official may require the submission of information and materials that may be necessary to ensure compliance with the provisions of this Ordinance and State law.

### **Section 1103 Building Code Compliance:**

All structures requiring a Building Permit shall comply with the requirements of all Building Codes, as adopted by the Town.

### **Section 1104 Issuance of Building Permits Prior to Completion and Acceptance of Required Improvements:**

Building permits may be issued prior to the completion and acceptance by the Town of the required public improvements provided, however, no building permit may be issued until

adequate financial assurances have been provided for completion of such improvements, as approved by the Town Council and Town Attorney. In such cases, the Building Official shall require the applicant for a building permit to sign a statement indicating the following:

1. The applicant is aware of the terms of the bond or escrow account established to guarantee completion of required improvements to the satisfaction of the Town.
2. The applicant releases the Town from all liability for the installation, maintenance, or repair of the required improvements until the same have been completed and accepted by the Town.
3. The applicant assumes all risk in connection with construction on the subject property.

**Section 1105 Certificates of Occupancy:**

A certificate of occupancy shall be required before any structure or premises, or part thereof, may be used or occupied. No certificate of occupancy shall be issued permitting the use or occupation of any such structure or premises unless and until:

1. If a building permit is required, all construction has been completed, as authorized; or
2. If no building permit is required, the use conforms to this Ordinance and all other applicable statutes, ordinances and regulations; and
3. Payment of all applicable fees, charges and other requirements have been made and all conditions for the establishment of the use or structure have been met.

**Section 1106 Exemptions:**

The following properties, uses, and structures shall, to the extent provided by law, be exempt from the provisions of this Code:

1. Properties owned and operated by the State of Utah or the Federal Government. Where State or Federal law requires that the agency take steps to comply with all applicable local regulations, this exemption shall not be construed to abrogate that requirement.
2. Agricultural buildings to the extent exempted by the provisions of §58-56-4, U.C.A.

**CHAPTER 12**  
**SENSITIVE LANDS, HILLSIDE AND MESA TOPS PROTECTION OVERLAY**  
**DISTRICT**

**Section 1201 Purpose and Intent:**

The Sensitive Lands, Hillside, and Mesa Tops Overlay Protection District shall apply to all lands identified to be sensitive by this Section. This District identifies additional development requirements for areas identified as Sensitive Lands, Hillside, and Mesa Top areas. The uses allow by the underlying or base zone shall still apply.

The purpose of the Sensitive Lands, Hillside, and Mesa Tops Protection Overlay District is to protect the health, safety, and general welfare of the residents of Boulder Town and to protect the unique visual and environmental character of all sensitive lands, hillside and mesa top areas by establishing procedures for the development of these areas. These procedures are intended to:

1. Minimize adverse soils and slope instability.
2. Decrease the potential for erosion.
3. Reduce the adverse effects of grading, cut, and fill operations.
4. Prevent visual intrusions on hillsides and mesa tops and preserve visually significant areas.
5. Preserve the natural character of sensitive lands, hillsides, and mesa tops and preserve the most visually significant hillsides and mesa tops in their natural state.
6. Require the location and design of building which provide for safety and enjoyment while recognizing the existing development constraints.
7. Minimize the effects of grading, scarring and erosion effects of cutting, filling, and other development activities.
8. Encourage development that is sensitive to the value and amenities of these areas.

**Section 1202 Sensitive Lands, Hillside, and Mesa Top Areas:**

The Sensitive Lands, Hillside, and Mesa Tops Overlay District shall apply to the following areas within the Town:

1. Areas of slope exceeding 15% average grade.
2. Flood channels as identified by a Federal or State agency.

3. Jurisdictional wetlands as identified by the U.S. Army Corps of Engineers.
4. Hillside and Mesa Top Areas identified on the Hillside and Mesa Top Consideration Map, dated 2/4/2000, and incorporated herein by reference.

**Section 1203 Development Restrictions:**

All sensitive lands, hillsides, and mesa tops shall be preserved and retained in a natural state. All development proposed on mesa tops shall be sited in a manner so as not to create a silhouette against the skyline. No development shall be permitted on any land:

1. Identified as having slope exceeding 30% average grade.
2. Flood channels as identified by a Federal or State agency.
3. Jurisdictional wetlands as identified by the U.S. Army Corps of Engineers.

**Section 1204 Development Requirements and Restrictions:**

No building or other structure shall visually intrude into the ridgelines of a mesa top. For the purposes of this Ordinance and this Section “visual intrusion” shall mean being visible from any point six feet (6') high located on Utah State Highway 12 from the Utah Department of Transportation Road Shed north to the Town boundaries and any point six feet (6') high located on the Lower Boulder Road and within the boundaries of Boulder Town. Mesa Top Areas shall be those areas identified on the Hillside and Mesa Top Consideration Map, dated 2/4/2000, and incorporated herein by reference.

It shall be unlawful to excavate or grade any area within the Sensitive Lands, Hillside, and Mesa Tops Overlay District prior to final approval by the approving officer or body. In addition to the penalties outlined in this ordinance, Boulder Town may enter legal proceedings to require any person who violates this Section to return a site to its condition prior to any disturbance.

**Section 1205 Application Requirements:**

In addition to the application requirements identified by this Ordinance, the following information and materials shall be provided for all areas identified as:

1. Areas of slope exceeding 15% average grade.
2. Flood channels as identified by a Federal or State agency.
3. Jurisdictional wetlands as identified by the U.S. Army Corps of Engineers.



4. Hillside and Mesa Top Areas identified on the Hillside and Mesa Top Consideration Map, dated 2/4/2000, and incorporated herein by reference.

**Section 1206 Required Information:**

1. **Proposed Grading Plan.** A grading plan, prepared by a licensed engineer, and identifying the existing and proposed finished grades at contour intervals not exceeding two (2) feet of the development site and adjoining property for a minimum of one hundred (100) feet outside all boundary lines of the development site.
2. **Drainage Plan.** A drainage plan, prepared by a licensed engineer, identifying all surface and subsurface drainage systems and facilities, walls, curbing, or other erosion protection devices to be constructed in connection with or as part of the proposed work, together with a map showing the drainage area and estimated run-off of the area to be served by any drainage systems or facilities.
3. **Facilities Plan.** This plan, prepared by a licensed engineer, shall show any existing and proposed buildings or structures, easements, drainage channels, and all proposed utilities with their location on the site. In addition, the location of any buildings or structures on adjacent property which may be affected by grading operations shall be shown.
4. **Soils Report.** A soils report, prepared by a licensed Geotechnical engineer, and identifying the following:
  - a) Slope stability analysis: Conclusions and recommendations concerning the effects of material removal, introduction of water, ground shaking, and erosion potentials.
  - b) Foundation investigation: Conclusions and recommendations concerning the effects of soil conditions on foundation and structural stability, including bearing capacity, shear strength, and shrink-swell potential of soils on the site.
  - c) The location and yield of springs and seeps on the site, evaluation of soil permeability for septic systems if proposed.
  - d) Conclusions and recommendations regarding means to increase safety during and after construction and means to minimize any adverse effects to the development of the site.
5. **Geology Report.** A geology report, prepared by a licensed Geotechnical engineer, identifying the following:
  - a) Location and size of the subject area and its general setting, noting any wetlands, drainage areas, areas subject to high ground water, aquifers, shale units and poorly consolidated materials.

- b) The presence of any surface or subsurface hazards including potential for rock falls and toppling failures in cliffs, slopes, and overhangs, and fault line.
  - c) Conclusions and recommendations regarding the effect of geologic conditions on the proposed development site and recommendations identifying the means proposed to minimize any hazard to life or property, or any adverse impact on the natural environment.
6. **Vegetation Report.** A vegetation plan, prepared by a licensed landscape architect, including a plan for the protection of any existing vegetation, any proposed re-vegetation of the site or modifications to existing vegetation and a plan for the preservation of existing vegetation during construction activities.
7. **Other Reports.** Other reports deemed necessary by the officer or body charged with the approval of a requested use to assure the health, safety, and welfare of the project residents or public may be requested from the applicant by written specification. Such reports shall be submitted with the other applications materials.

**Section 1207 Bonding:**

The approving officer or body may require the applicant to post a bond, approved by the Town Attorney, and sufficient to ensure the development is completed according to approved plans.

**CHAPTER 13**  
**NONCONFORMING USES, NONCOMPLYING STRUCTURES, AND OTHER**  
**NONCONFORMITIES**

**Section 1301 Purpose:**

The following provisions are provided to establish procedures for determining the existence of a legal nonconforming use, a legal noncomplying structure, or other legal nonconformity, including noncomplying lots and signs, and other matters relating to legal nonconforming uses, legal noncomplying structures, and other legal noncomplying structures and activities.

**Section 1302 Legal Nonconforming Uses or Noncomplying Structures May be Continued:**

1. A legal nonconforming use or legal noncomplying structure, as determined by the provisions of this Chapter, may be continued by the present or a future property owner.
2. A legal nonconforming use may be extended through the same building, provided no structural alteration of the building is proposed or made for the purpose of the extension.
3. For purposes of this Ordinance, the addition of a solar energy device to a building is not a structural alteration.
4. The Town shall not prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure that is involuntarily destroyed in whole or in part due to fire or other calamity unless the structure or use has been abandoned.

**Section 1303 Authority:**

1. As provided for by the Act, the BOA is hereby authorized as the Land Use Authority to review and render a decision determining the existence of a legal nonconforming use, a legal noncomplying structure, or other legal nonconformity.
2. The BOA is hereby authorized as the Land Use Authority to review and render a decision concerning any disputes relating to the abandonment of structures associated with a nonconforming use or noncomplying structure.

**Section 1304 Initiation:**

All requests for a determination of the existence of a legal nonconforming use, legal noncomplying structure, or other legal nonconformity shall be initiated by filing the necessary Application in the Office of the Town Clerk. A property owner may present an Application for review and decision by the BOA. An agent of the property owner, or a lessee of the property,

may present an Application for a determination of the existence of a legal nonconforming use, legal noncomplying structure, or other legal nonconformity for review and decision, provided such application is accompanied by a property owner affidavit of authorization.

**Section 1305 Application Requirements – Determination of Application Completeness Required:**

All Applications for a determination of the existence of a legal nonconforming use, legal noncomplying structure, or other legal nonconformity, as applicable, are required to comply with all requirements of this Chapter and this Ordinance. All Applications for a determination of the existence of a legal nonconforming use, legal noncomplying structure, or other legal nonconformity shall be determined complete by the Zoning Administrator.

**Section 1306 Burden of Proof with the Property Owner:**

As provided by the Act, the property owner shall have the burden of establishing the legal existence of a nonconforming use, noncomplying structure or other nonconformity.

**Section 1307 Determination of Existence of a Legal Nonconforming Use, Legal Noncomplying Structure, or other Legal Nonconformity Application Requirements:**

All Determination of Existence of a Legal Nonconforming Use, Legal Noncomplying Structure, or other Legal Nonconformity Applications shall include and provide the following information:

1. A complete Determination of a Legal Nonconforming Use/Legal Noncomplying Structure/Other Legal Nonconformity Application, available from the Office of the Town Clerk.
2. Determination of a Legal Nonconforming Use/Legal Noncomplying Structure/Other Legal Nonconformity Application fees, as established by the Council.
3. Other information, as may be determined necessary by the Applicant(s), to clearly establish the existence of a legal nonconforming use, noncomplying structure, lot, sign, or other nonconformity on the date of adoption of this Ordinance, or prior enactments thereof, and compliance with all requirements of this Chapter and this Ordinance, and compliance with all requirements of prior enactments thereof.

**Section 1308 Approval Standards for a Determination of the Existence of a Legal Nonconforming Use, Legal Noncomplying Structure, or other Legal Nonconformity Application by the BOA:**

The BOA shall review the Application and determine if the Application, from the materials presented by the Applicant, the existence of a legal nonconforming use, legal noncomplying structure, or other legal nonconformity, complies with the following:

1. The use, structure, or other nonconformity is not an allowed use, structure, or other activity allowed within the Zoning District.
2. From the evidence presented by the Applicant, who shall have the burden of establishing the legal existence of the nonconforming use, noncomplying structure, or other nonconformity, as provided by the Act, that sufficient information, documentation and other materials have been presented by the Applicant to clearly establish that the use, structure, or other nonconformity, which is the subject of the Application, legally existed on the date of adoption of this Ordinance, and complied with all prior enactments of this Ordinance.

**Section 1309 Required Findings for Approval or Denial of a Determination of the Existence of a Legal Nonconforming Use, Legal Noncomplying Structure, or other Legal Nonconformity Application by the BOA:**

1. If the BOA finds that the use, structure, or other nonconformity, which is the subject of the Application, legally existed on the date of adoption of this Ordinance, as adopted, and all other Land Use Ordinances and requirements, as applicable, and complied with all prior enactments thereof, the Application shall be approved. Following the approval by the BOA of a Determination of the Existence of a Legal Nonconforming Use, Legal Noncomplying Structure, or other Legal Nonconformity Application, the Applicant may apply for other necessary approvals, licenses, or permits as may be applicable and authorized by this Chapter.
2. If the BOA finds that the use, structure, or other nonconformity which is the subject of the Application did not legally exist on the date of adoption of this Ordinance, as adopted, and all other Land Use Ordinances and requirements, as applicable, and did not comply with all prior enactments thereof, the Application shall be denied and no other approvals, licenses, or permits shall be approved that are related to the use, structure, or other nonconformity.

**Section 1310 Effect of Approval of an Application for a Determination of the Existence of a Legal Nonconforming Use, Legal Noncomplying Structure, or other Legal Nonconformity:**

1. A finding by the BOA of the existence of a legal noncomplying use, noncomplying structure, lot, sign, or other nonconformity shall not authorize the establishment, restoration, reconstruction, extension, alteration, expansion, or substitution of any nonconforming use, noncomplying structure, lot, sign, or other nonconformity.
2. Following a decision by the BOA, the BOA Recording Secretary shall provide the Applicant with a written notice of the decision. The written record of all Applications shall be maintained on file by the Town Clerk.
3. A finding by the BOA of the existence of a legal noncomplying use, noncomplying structure, lot, sign, or other nonconformity shall not be deemed an approval of any other application, permit, or license.
4. A finding by the BOA of the existence of a legal noncomplying use, noncomplying structure, lot, sign, or other nonconformity shall allow the filing of an Application for any necessary approval, permit, or license, as may be required by this Ordinance, as adopted, and all other Land Use Ordinances and requirements, as applicable.

**Section 1311 Requirements for Nonconforming Uses:**

Following a determination by the BOA of the existence of a legal nonconforming use, the use shall comply with the following requirements:

1. As provided by the Act, a legal nonconforming use may be continued by the present or future property owner.
2. As provided by the Act, a legal nonconforming use may be extended through the same building, provided no structural alteration of the building is proposed or made for the purposes of the extension. As provided by the Act, for the purposes of this Subsection, the addition of a solar energy device to a building is not a structural alteration.
3. Necessary maintenance and repairs may be made to a structure housing a legal nonconforming use by following the procedures for any approval, permit, or license, including the issuance of a Building Permit, for such maintenance and repairs, as required by this Ordinance, as adopted, and all other Land Use Ordinances and requirements, as applicable.

4. As provided by the Act, the Town may require the termination of a legal nonconforming use by providing a formula establishing a reasonable time period during which the owner can recover or amortize the amount of his investment in the nonconforming use.
5. As provided by the Act, the Town may not terminate a legal nonconforming use of a structure that is involuntarily destroyed in whole or in part due to fire or other calamity unless the use has been abandoned.
6. As provided by the Act, a legal nonconforming use of a structure shall terminate if:
  - a) The structure is allowed to deteriorate to a condition that the structure is rendered uninhabitable and is not repaired or restored within six (6) months after written notice is provided to the property owner, by the Zoning Administrator, that the structure is uninhabitable and that the nonconforming use will be lost if the structure is not repaired or restored within six (6) months.
  - b) The property owner has voluntarily demolished a majority of the building that houses the nonconforming use.
7. Change in Use. A legal nonconforming use may only be changed to a use allowed in the Table of Uses for the Zoning District in which the property is located, by following the approval procedures for such use, as required by this Ordinance, as adopted, and all other Land Use Ordinances and requirements, as applicable.

**Section 1312 Requirements for Noncomplying Structures:**

Following a determination by the BOA of the existence of a legal noncomplying structure, the structure shall comply with the following requirements:

1. As provided by the Act, a legal noncomplying structure may be continued by the present or future property owner.
2. As provided by the Act, the Town may not prohibit the reconstruction or restoration of a legal noncomplying structure that is involuntarily destroyed in whole or in part due to fire or other calamity unless the structure has been abandoned.
3. Necessary maintenance and repairs may be made to a legal noncomplying structure by following the procedures for any approval, permit, or license, including the issuance of a Building Permit, for such maintenance and repairs, as required by this Ordinance, as adopted, and all other Land Use Ordinances and requirements, as applicable.
4. As provided by the Act, a legal noncomplying structure shall terminate if:

- a) The structure is allowed to deteriorate to a condition that the structure is rendered uninhabitable and is not repaired or restored within six (6) months after written notice is provided to the property owner, by the Zoning Administrator, that the structure is uninhabitable and that the noncomplying structure will be lost if the structure is not repaired or restored within six (6) months.
- b) The property owner has voluntarily demolished a majority of the noncomplying structure.

**Section 1313 Requirements for Noncomplying Lots:**

This Section shall apply to legal undeveloped noncomplying lots or parcels.

- 1. A legal lot of record or any parcel of record legally existing on the date of adoption of this Ordinance shall:
  - a) Be eligible for a Building Permit authorizing the construction of one (1) single family dwelling, complying with the provisions of this Ordinance, as adopted, and all other Land Use Ordinances and requirements, as applicable, even though such lot or parcel may not conform to the requirements of the Zoning District in which the legal noncomplying lot or parcel is located. provided:
    - i) That such lot or parcel of land is located in a Zoning District that allows single family dwellings, and
    - ii) The proposed construction can qualify for the issuance of a Building Permit for a single-family dwelling, as required by the Building Codes as adopted.

**Section 1314 Requirements for Noncomplying Signs:**

This Section shall apply to signs that were legal on the date of adoption of this Ordinance but which may now be a noncomplying structure.

- 1. A legal noncomplying sign shall not be enlarged.
- 2. A legal noncomplying sign shall not be moved or replaced, except to bring the sign into compliance with this Ordinance, as adopted, and all other Land Use Ordinances and requirements, as applicable.
- 3. The text message of a legal noncomplying sign may be changed if such changes do not create any new nonconformities or other noncompliance.



4. A legal noncomplying sign shall be considered abandoned if it advertises a business, service, commodity, or other activity that has been discontinued for a minimum period of one (1) year.

**Section 1315 Termination of a Nonconforming Use by the Town Permitted – Reasonable Amortization Period Required:**

As provided by the Act, the Town may terminate a nonconforming use, except billboards, by providing a formula establishing a reasonable time period during which the owner can recover or amortize the amount of his investment in the nonconforming use, if any.

**Section 1316 Termination of a Nonconforming Use due to Abandonment:**

1. As required by the Act, any party claiming a legal nonconforming use has been abandoned shall have the burden of establishing the abandonment.
2. Abandonment may be presumed to have occurred if:
  - a) A majority of the primary structure associated with the nonconforming use has been voluntarily demolished without prior written agreement with the Town regarding an extension of the nonconforming use.
  - b) The use has been discontinued for a minimum period of one (1) year; or
  - c) The primary building associated with the nonconforming use remains vacant for a minimum period of one (1) year.
3. The property owner may rebut the presumption of abandonment under this Section and shall have the burden of establishing that any claimed abandonment under this Section has not in fact occurred. The BOA shall have authority to review and decide all disputes relating to abandonment of structures associated with a nonconforming use, noncomplying structure, or other nonconformity.
4. The Town may terminate the nonconforming use status of a School District or charter school use or structure when the property associated with the School District or charter school use or structure ceases to be used for school district or charter school purposes for a minimum period of one (1) year.

**Section 1317 Determination of a Legal Nonconforming Use/Legal Noncomplying Structure/Other Legal Nonconformity Applications by the BOA to be on File:**

The Town Clerk shall maintain all Determinations of a Legal Nonconforming Use/Legal Noncomplying Structure/Other Legal Nonconformity Applications on file.

**Section 1318 Revocation of a Determination of a Legal Nonconforming Use/Legal Noncomplying Structure/Other Legal Nonconformity Applications:**

The approval of a Determination of a Legal Nonconforming Use/Legal Noncomplying Structure/Other Legal Nonconformity Application by the BOA shall be revoked by the BOA if the BOA finds that the approval was obtained in a fraudulent manner.

**Section 1319 Appeal:**

Any person aggrieved by a decision of the BOA related to a nonconforming use, noncomplying structure, or other nonconformity may appeal the decision to District Court, as provided by Act, and as provided herein.

## **CHAPTER 14 MOVING OF BUILDINGS**

### **Section 1401 Purpose:**

These provisions are designed to facilitate and manage the moving of buildings and structures within Boulder Town and to establish necessary requirements for the moving of buildings and structures

### **Section 1402 Application Required:**

An application for the moving of buildings shall be made by filing an application for a building permit with the Town.

### **Section 1403 Approval Procedures:**

An application for the moving of buildings shall be reviewed and approved by the Planning Commission.

In considering the request for the moving of buildings, the Planning Commission shall consider the following, among other items, and find:

1. That the building will have no material negative effect on the surrounding area and property values in the area to which the building is to be moved.
2. The building is in conformity with the type and quality of the buildings existing in the area to which the building is to be moved.
3. That the building and the property on which the building is proposed to be located complies fully with all the provisions of this Ordinance and all applicable Building Codes.
4. The building and its proposed location does not adversely affect existing buildings, uses or property in the area.
5. That all approvals, dedications and improvements required by the Town are provided in conformity with the standards of this Ordinance and all other Ordinances.

Upon finding of compliance with this Ordinance and the adopted Building Code, and any other items deemed necessary, the Planning Commission may approve the application for the moving of buildings.

**Section 1404 Permits and Guarantees Required:**

Before building permits can be issued, and as a condition of approval of the application for the moving of buildings, the Planning Commission may require the applicant to post a bond as determined necessary to adequately cover the installation of all improvements required by the Town.

**Section 1405 Certificate of Occupancy:**

Prior to the issuance of any certificate of occupancy, the Building Official will ensure that the building complies with all requirements of the Planning Commission in authorizing the moving of the building and the International Building Code (IBC) and all other Codes.

**Section 1406 Restoration of Old Site:**

When the site to be vacated by the moving building or structure is located within the Town, the Planning Commission may require a bond for all costs to restore the vacated site to a safe and sightly condition.

## **CHAPTER 15 VARIANCES**

### **Section 1501 General:**

The Board of Adjustment (BOA), as provided by §10-9-703 *et. seq.* Utah Code Annotated, 1953, as amended, is hereby authorized to consider applications for variances, as defined. Where the BOA finds that an unreasonable hardship may result from strict compliance with the provisions of this Ordinance, the BOA may approve variances to the development requirements of this Ordinance so that substantial justice may be done and the public interest secured, provided that the variance shall not have the effect of nullifying in any way the intent and purpose of this Ordinance.

### **Section 1502 Use Variance Prohibited:**

The BOA may not authorize the establishment of a use other than those identified in the Table of Uses.

### **Section 1503 Standards:**

The BOA shall not approve a variance unless, based upon the evidence presented, it finds that all of the following apply:

1. Literal enforcement of the provisions of this Ordinance would cause an unreasonable hardship for the applicant and the applicant has demonstrated that the hardship is located on, or associated with the property for which the variance is sought, and is peculiar to the property rather than conditions general to the immediate area.
2. The identified hardship is not self-imposed.
3. The identified hardship is not economic in nature.
4. There exist special circumstances attached to the property that do not apply to other properties in the same zoning district.
5. The variance is essential to the enjoyment of a property right possessed by other property in the same zoning district.
6. The granting of the variance will not be contrary to the public interest.

**Section 1504 Conditions:**

In approving any variance, the BOA may require such conditions, in the judgment of the BOA, necessary to mitigate any negative effects of granting the variance and to secure the purposes of this Ordinance.

**Section 1505 Effect of Granting a Variance:**

The granting of a variance shall not authorize the establishment or extension of any use, nor the development, construction, reconstruction, alteration or moving of any building or structure, but is a prerequisite to the preparation, filing, review, and determination of any approval, permit, or license that may be required by this Ordinance.

**Section 1506 Time Limitation:**

No variance shall be valid for a period of longer than six (6) months unless a building permit is issued within that period.

**Section 1507 Application Required:**

An application for a variance may be submitted on the application provided by the Town.

## **CHAPTER 16 ENFORCEMENT**

### **Section 1601 Enforcement - Procedures and Duties:**

This Ordinance may be enforced by the Town by all appropriate means authorized by State law and Boulder Town ordinances including, but not limited to, injunctive relief, fines, withholding of building permits and revocation of development approvals, permits, and licenses.

It shall be the duty of the Zoning Administrator, Planning Commission, and/or Town Council to enforce these requirements and to bring to the attention of the Town Attorney any violations of this Ordinance.

No building permit shall be issued for the construction of any building or structure located on a lot subdivided or sold in violation of the provisions of this Ordinance or the Boulder Town Subdivision Ordinance, nor shall the Town have any obligation to issue certificates of occupancy or to extend facilities or services to any parcel created in violation of this Ordinance or the Boulder Town Subdivision Ordinance.

### **Section 1602 Civil Enforcement:**

Appropriate actions and proceedings may be taken by the Town in law or in equity to prevent any violation of this Ordinance, to prevent unlawful construction, to recover damages, to restrain, correct, or abate a violation, and to prevent illegal occupancy of a building, structure, or premises.

### **Section 1603 Reconsideration/Revocation of Approvals, Permits, and Licenses:**

An approved development application, permit, or license may be reconsidered and revoked by the Town if it is determined that the application, decision, permit, or license was based on inaccurate or incomplete information.

### **Section 1604 Revocation Procedures:**

1. If the Zoning Administrator, Building Official, Planning Commission, or Town Council determines that there exists reasonable grounds for revocation of a development permit or license authorized by this Ordinance, a public hearing shall be set before the approving body.
2. Notice and Public Hearing. At least fourteen (14) days notice of a proceeding to reconsider or revoke the development permit or license shall be given to the applicant.
3. Required Findings. The approving body may revoke the development approval, permit, or license upon making one or more of the following findings:

- a) That the development permit was issued based on erroneous or misleading information or misrepresentation.
  - b) The terms or conditions of approval of the permit relating to establishment or operation of the use, building, or structure have been violated or that other laws or regulations of the Town applicable to the development have been violated.
4. Decision and Notice. Within twenty-one (21) days of the conclusion of the public hearing, the approving body shall render a decision and shall notify the holder of the permit or license of the decision, and any other person who has filed a written request for such notice.
  5. Effect. A decision to revoke a development permit or license shall become final five (5) days after the date notice of the decision was given. After the effective date, all activities pursuant to such permit shall be deemed in violation of this Ordinance.



## **CHAPTER 17 REVIEW OF CONSTITUTIONAL TAKING ISSUES**

### **Section 1701 Policy Considerations - Purpose:**

There is a policy of Boulder Town, favoring the careful consideration of matters involving Constitutional Taking claims, in fairness to the owner of private property bringing the claim, and in view of the uncertainty and expense involved in defending lawsuits alleging such issues. At the same time, the legitimate role of the Town in lawfully regulating real property must be preserved and the public's right to require the dedication or exaction of property consistent with the Constitution. Consistent with this policy, this Chapter establishes a procedure for the review of actions that may involve the issue of Constitutional Takings, as well as providing guidelines for such considerations. This chapter is further intended and shall be construed to objectively and fairly review claims by citizens that a specific government action should require payment of just compensation, while preserving the ability of the Town to lawfully regulate real property and fulfill its duties and functions.

### **Section 1702 Guidelines Advisory:**

The guidelines adopted and decisions rendered pursuant to the provisions of this Chapter are advisory only, and shall not be construed to expand or limit the scope of the Town's liability for a Constitutional Taking.

### **Section 1703 Review of Final Town Decision - Procedures:**

Any owner of private real property who claims there has been a Constitutional Taking of private real property by an action of the Town shall request a review of a final decision of the Town.

The following are specific procedures established for such review:

1. The person requesting a review must have obtained a final and authoritative determination from the Town.
2. Within thirty (30) days from the date of the Town's final determination that gave rise to the concern that a Constitutional Taking may have occurred, the person requesting the review shall file in writing, in the office of the Town Clerk, a request for review of that decision. A copy shall also be filed with the Town Attorney.
3. The Town Council, or designee of the Town Council, shall immediately set a time to review the decision that gave rise to the Constitutional Takings claim.
4. In addition to the written request for review, the applicant must submit the following information:

- a) Name of the applicant requesting review.
- b) Name and business address of current owner of the property, form of ownership, whether sole proprietorship, for-profit or not-for-profit corporation, partnership, joint venture or other, and if owned by a corporation, partnership or joint venture, name and address of all principal shareholders or partners.
- c) A detailed description of the grounds for the claim that there has been a Constitutional Taking.
- d) A description of the property taken.
- e) Evidence and documentation as to the value of the property taken, including the date and cost at the date the property was acquired. This should include any evidence of the value of the property before and after the alleged Constitutional Taking, the name of the party from whom purchased, if applicable, including the relationship, if any, between the person requesting a review and the party from whom the property was acquired.
- f) The nature of the protectable interest claimed to be affected, such as, but not limited to, fee simple ownership, leasehold interest.
- g) Terms (including sale price) or any previous purchase or sale of a full or partial interest in the property in the three (3) years prior to the date of application.
- h) All appraisals of the property prepared for any purpose, including financing, offering for sale, or ad valorem taxation, within the three (3) years prior to the date of application.
- i) The assessed value of and ad valorem taxes paid on the property for the previous three (3) years.
- j) All information concerning current mortgages or other loans secured by the property, including name of the mortgagee or lender, current interest rate, remaining loan balance and term of the loan and other significant provisions, including but not limited to, right of purchasers to assume the loan.
- k) All listings of the property for sale or rent, prices asked and offers received, if any, within the previous three (3) years.
- l) All studies commissioned by the applicant or agents of the applicant within the previous three (3) years concerning feasibility of development or utilization of the property.

- m) Itemized income and expense statements from the property for the previous three (3) years.
  - n) Information from a title policy or other source showing all recorded liens or encumbrances affecting the property.
  - o) The Town Council, or their designee, may request additional information identified to be necessary, in their opinion, to arrive at a conclusion concerning whether there has been a Constitutional Taking.
5. An application shall not be deemed to be "complete" until the Town Council, or designee, certifies to the applicant that all the materials and information required above have been received by the Town. The Town Council, or designee, shall notify the applicant of any missing information and identifying the materials and information necessary to correct the incomplete application.
  6. The Town Council, or designee, shall hear all the evidence related to and submitted by the applicant and the Town.
  7. A final decision on a review of a Constitutional Takings claim shall be rendered within fourteen (14) days from the date the complete application for review has been received by the Town Clerk. The decision of the Town Council, or designee, regarding the results of the review shall be given in writing to the applicant and the officer, employee, Board or Commission that rendered the final decision that gave rise to the Constitutional Takings claim.
  8. If the Town Council, or designee, fails to hear and decide the review within fourteen (14) days, the decision appealed from shall be presumed to be approved and the Constitutional Takings claim denied by the Town Council, or designee.

**Section 1704 Reviewing Guidelines:**

The Town Council, or designee, shall review the facts and information presented by the applicant to determine whether the action by the Town constitutes a Constitutional Taking as defined in this Ordinance. In doing so, they shall consider:

1. Whether the physical taking or exaction of the private real property bears an essential nexus to a legitimate governmental interest.
2. Whether a legitimate governmental interest exists for the action taken by the Town.
3. Is the property and exaction taken roughly proportionate and reasonably related both in nature and in extent to the impact caused by the activities that are the subject of the decision being reviewed?

**Section 1705 Results of Review:**

After completing the review, the Town Council, or designee, shall make a determination regarding the above issues and, where determined to be necessary and appropriate, shall make a recommendation to the officer, employee, Board or Commission that made the decision that gave rise to the Constitutional Takings claim.

## **CHAPTER 18 APPEAL AUTHORITIES AND PROCEDURES**

### **Section 1801 Purpose:**

As required by the Act, this Chapter is provided to allow the Applicant, a Board, or Officer of the Town, or any other person who believes they are adversely affected by a decision of a Land Use Authority to appeal the decision to an Appeal Authority, as identified by this Chapter.

### **Section 1802 Appeal Authorities:**

As provided by the Act, and to provide for appeals of decisions of the Town's Land Use Authorities administering or interpreting the Land Use Ordinances, including this Ordinance, the following Appeal Authorities, with their respective appeal responsibilities, are hereby identified:

#### **1. District Court.**

- a) Any person aggrieved by a decision of the Council in enacting or administering this Ordinance, or the Town's other Land Use Ordinances, may file a Petition with District Court, as provided by this Chapter.
- b) Any person aggrieved by a decision of the BOA in administering this Ordinance may file a Petition with the District Court, as provided by this Chapter.

#### **2. Council.**

- a) Any person aggrieved by a decision of the Commission in administering this Ordinance may file an Appeal with the Council.

#### **3. Commission.**

- a) Any person aggrieved by a decision of the Zoning Administrator in administering or interpreting this Ordinance, or the Town's other Land Use Ordinances, may file an Appeal with the Commission.

### **Section 1803 Maximum Time Allowed to File Appeal:**

1. Any person, including the Applicant for any Land approval required by this Ordinance, and any board or officer of the Town, aggrieved by a decision of a Land Use Authority's decision administering or interpreting this Ordinance, or the Town's Land Use Ordinances may, within ten (10) days of the decision, appeal that decision to the Appeal Authority identified by Section 1802 herein, except as may be further provided by Subsection (2) and (3) below.
2. Any person, including the Applicant for any approval required by this Ordinance, or the Town's other Land Use Ordinances, and any board or officer of the Town, aggrieved by a decision of the Council, acting as a Land Use Authority, may file a Petition for the review of

the Council's decision with the District Court within thirty (30) calendar days after the decision is final, as provided by Section 1811 and Section 1812, herein.

3. Any person, including the Applicant for any approval required by this Ordinance, or the Town's other Land Use Ordinances, and any board or officer of the Town, aggrieved by a decision of an Appeal Authority may file a Petition for review of the decision with the District Court within thirty (30) calendar days after the decision is final, as provided by Section 1811 and Section 1812, herein.

**Section 1804 Requirements for an Appeal:**

1. An Appeal Petition of a Land Use Authority's decision made under the authority of this Ordinance, or the Town's other Land Use Ordinances, shall clearly identify the alleged error in any order, requirement, decision, or determination made by the Land Use Authority in the administration or interpretation of this Ordinance, or the Town's other Land Use Ordinances.
2. Only those decisions in which a Land Use Authority has applied the requirements of this Ordinance, or the Town's other Land Use Ordinances to a particular application, person, lot, or parcel may be appealed to an Appeal Authority.

**Section 1805 Condition Precedent to Judicial Review, Appeal Authority Duties:**

1. As required by the Act, and as a condition precedent to judicial review, each adversely affected person shall timely and specifically challenge a Land Use Authority's decision, in accordance with the requirements of this Chapter.
2. An Appeal Authority shall:
  - a) Act in a quasi-judicial manner; and
  - b) Serve as the final arbiter of issues involving the interpretation or application of this Ordinance, and the Town's other Land Use Ordinances; and
  - c) May not entertain an appeal of a matter in which the Appeal Authority, or any participating member, had first acted as the Land Use Authority.
3. As provided by the Act, an adversely affected party shall present every theory of relief to the Appeal Authority that it can raise in District Court.
4. As required by the Act, an Appeal Authority shall not require an adversely affected party to pursue duplicate or successive appeals before it, or another Appeal Authority, as a condition of the adversely affected party's duty to exhaust administrative remedies.

**Section 1806 Application Required:**

1. An Appeal Petition or Application for an Appeal, of a Land Use Authority's decision shall be made on the Appeal Application, available from the Town Clerk.
2. An Appeal Application shall be determined complete by the Town Clerk.

**Section 1807 Meetings, Records, and Action of an Appeal Authority:**

1. Each Appeal Authority, as identified herein shall:
  - a) Notify each of its members of any meeting or hearing;
  - b) Provide each of its members with the same information and access to Town resources as any other member;
  - c) Convene only if a quorum of its members is present; and
  - d) Act only upon the vote of a majority of its convened members.
2. After an Appeal Petition is determined complete by the Town Clerk, as provided herein, the Zoning Administrator shall coordinate with the Appeal Authority to schedule the hearing of the appeal. The Zoning Administrator shall transmit to the Appeal Authority all materials constituting the full and complete record of the decision of the Land Use Authority.
3. Following a written decision by the Appeal Authority, as provided by Section 1811 herein, the Appeal Authority shall provide the applicant with a copy of the written decision.
4. A record of the decisions of the Appeal Authority shall be maintained in the Office of the Town Clerk, which shall constitute the official record of the Appeal Authority.

**Section 1808 Due process:**

1. Each Appeal Authority, identified by this Chapter, shall conduct each appeal hearing, as provided herein.
2. Each Appeal Authority, identified herein, shall respect the due process rights of each of the participants.

**Section 1809 Burden of Proof:**

Any person bringing an appeal and alleging an error of a Land Use Authority's decision administering or interpreting this Ordinance or the Town's other Land Use Ordinances has the burden of proof that the Land Use Authority erred.

**Section 1810 Standard of Review for Appeals:**

1. Each Appeal Authority identified by this Chapter shall hear and review all appeal matters “on the record,” including the review of all factual matters. Each Appeal Authority shall only consider those materials presented and originally before the Land Use Authority in making the decision that is the subject of the appeal.
2. The Appeal Authority shall determine the correctness of a decision of the Land Use Authority in its interpretation and application of this Ordinance, and the Town’s other Land Use Ordinances.
3. Only those decisions in which a Land Use Authority has applied the requirements of this Ordinance, or the Town’s other Land Use Ordinances to a particular application, person, lot, or parcel may be appealed to an Appeal Authority.
4. An Appeal Application shall not be used to waive, modify, or amend any requirement, provision, or term of this Ordinance, or the Town’s other Land Use Ordinances.

**Section 1811 Final Decision:**

A decision of each Appeal Authority, as identified herein, shall take effect on the date when the Appeal Authority, as applicable, issues a written decision.

**Section 1812 District Court Review:**

1. Required Time for Filing.
  - a) No person may challenge in District Court a decision of a Land Use Authority until that person has exhausted all administrative remedies as provided by this Chapter and received a final decision from the Appeal Authority, as provided by Section 1811 herein.
  - b) Any person adversely affected by a final decision made in the exercise of, or in violation of, the provisions of this Chapter may file an Appeal Petition for review of the decision with the District Court within thirty (30) calendar days after the decision is final.
  - c) An Appeal Petition is barred unless it is filed within thirty (30) calendar days after the Appeal Authority's decision is final.
2. Tolling of Time.
  - a) The required time for filing for District Court review shall be tolled from the date that a person files a request for arbitration of a constitutional taking issue with the property rights ombudsman, as provided by §63-34-13, Utah Code Annotated, 1953, as amended, until thirty (30) calendar days after:
    - i) The arbitrator issues a final award; or



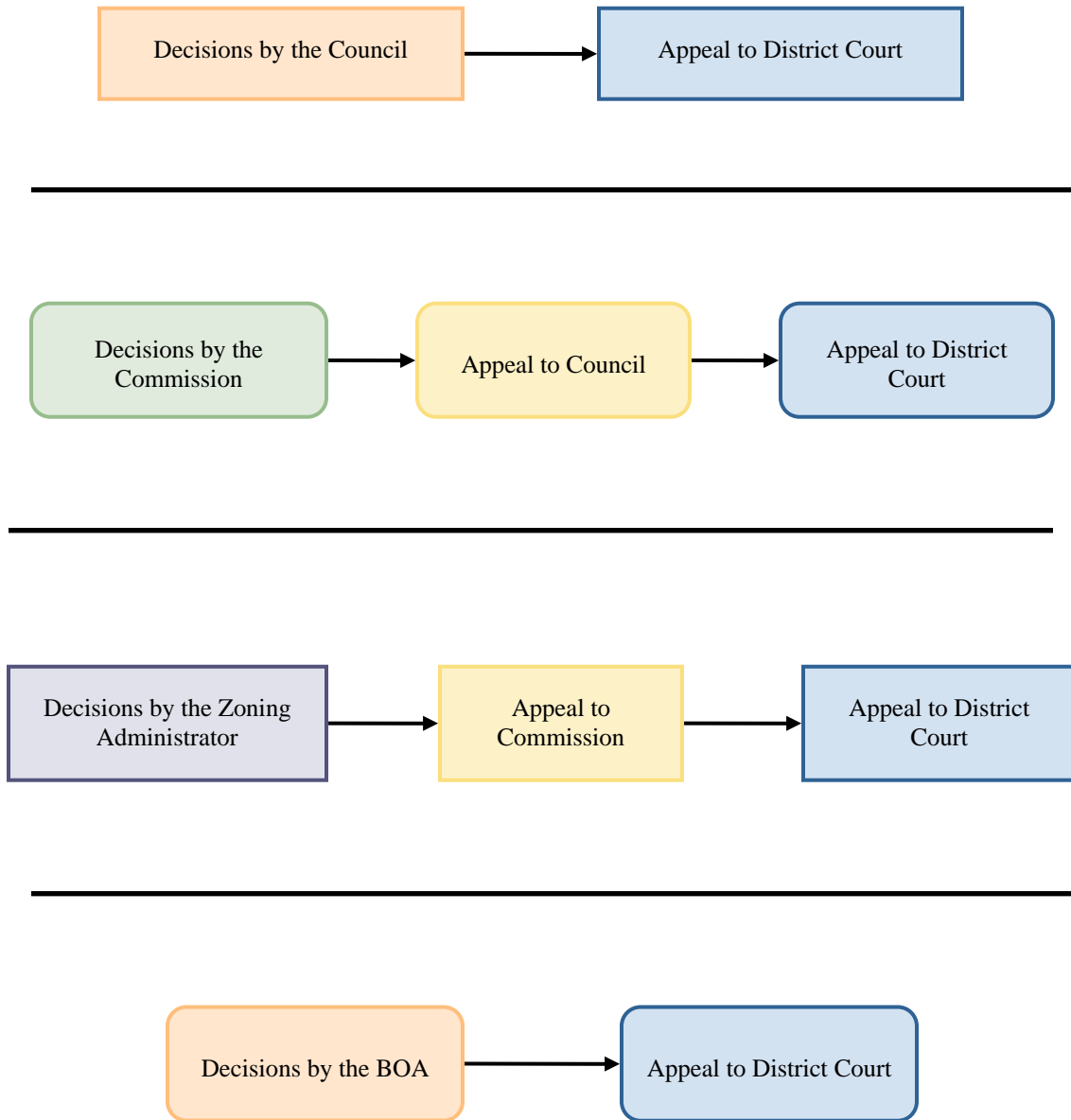
- ii) The property rights ombudsman issues a written statement under §63-34-13(4)(b) Utah Code Annotated, 1953, as amended, declining to arbitrate or to appoint an arbitrator.
  - b) A tolling under this Section operates only as to the specific constitutional taking issue that is the subject of the request for arbitration filed with the property rights ombudsman by a property owner.
  - c) A request for arbitration filed with the property rights ombudsman after the time under Subsection 2(a) to file an Appeal Petition has expired does not affect the time to file an Appeal Petition.
3. Standards Governing Court Review.
- a) The District Court shall:
    - i) Presume that a decision, ordinance, or regulation made under the authority of this Ordinance, or the Town's other Land Use Ordinances, and the Act, is valid; and
    - ii) Determine only whether the decision, ordinance, or regulation is arbitrary, capricious, or illegal.
  - b) A decision, ordinance, or regulation of the Council involving the exercise of legislative discretion is valid if the decision, ordinance, or regulation is reasonably debatable and not illegal.
  - c) A decision of a Land Use Authority or an Appeal Authority involving the exercise of administrative discretion is valid if the decision is supported by substantial evidence in the record and is not arbitrary, capricious, or illegal.
  - d) A determination of illegality requires a determination that the decision, ordinance, or regulation violates a law, statute, or ordinance in effect at the time the decision was made or the ordinance or regulation adopted.
  - e) The time requirements for the filing of an Appeal Petition with District Court, as provided by this Chapter apply from the date on which the Land Use Authority takes final action on a land use application for any adversely affected third party, if the Land Use Authority conformed with the notice provisions of this Ordinance, as applicable, or for any person who had actual notice of the pending decision.
  - f) If the Town has complied with the notice requirements, as provided by this Ordinance, a challenge to the enactment of this Ordinance may not be filed with the District Court more than thirty (30) calendar days after the enactment.
4. Appeal Authority – Review on the Record.

- a) The Council, acting as a Land Use Authority, or Appeal Authority, as the case may be, shall transmit to District Court the record of its proceedings, including its minutes, findings, orders, and, if available, a true and correct transcript of its proceedings.
  - i) If the proceeding was tape-recorded, a transcript of that tape recording is a true and correct transcript for purposes of this Section.
  - ii) If there is a record, the District Court's review is limited to the record provided by the Land Use Authority, or Appeal Authority, as the case may be.
- b) The court may not accept or consider any evidence outside the record of the Land Use Authority or Appeal Authority, as the case may be, unless that evidence was offered to the Land Use Authority or Appeal Authority, respectively, and the court determines that it was improperly excluded.
- c) If there is no record, the court may call witnesses and take evidence.
- d) The filing of a Petition does not stay the decision of the Land Use Authority, or Appeal Authority, as the case may be.

5. Staying of Decision.

- a) Before filing a Petition under this Chapter, or a request for mediation or arbitration of a constitutional taking issue under §63-34-13 Utah Code Annotated, 1953, as amended, the aggrieved party may petition the Appeal Authority to stay its decision.
- b) Upon receipt of a petition to stay, the Appeal Authority may order its decision stayed pending District Court review if the Appeal Authority finds it to be in the best interest of the Town.
- c) After a Petition is filed under this Chapter, or a request for mediation or arbitration of a constitutional taking issue is filed under §63-34-13 Utah Code Annotated, 1953, as amended, the petitioner may seek an injunction staying the Appeal Authority's decision.

**FIGURE 7**  
**APPEAL AUTHORITIES**



## **CHAPTER 19 PUBLIC NOTICE AND APPLICANT NOTICING REQUIREMENTS**

### **Section 1901 Purpose:**

As required and provided by the Act, the Town is required to provide notice of all public hearings and public meetings for adoption or modification of this Ordinance and when an Application required by this Ordinance is considered by the Commission or Council. The notice requirements of the Town for public hearings and public meetings and required Applicant notice regarding matters required by this Ordinance are provided by this Chapter.

### **Section 1902 Required Notice of Public Hearings and Public Meetings to Consider General Plan or General Plan Amendment Applications:**

1. Public Hearings. The Town Clerk for public hearings before the Council and the Planning Commission Secretary for public hearings before the Commission shall provide notice of each public hearing to consider the adoption or any modification of the General Plan, as presented by a General Plan Amendment Application, 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) Published in a newspaper of general circulation within the Town.
    - ii) Mailed to each “affected entity” as defined herein and the Act.
    - iii) Posted in at least three (3) public locations within the Town or on the Town’s official website.
  - b) Notice of the date, time, and place of each public hearing shall be mailed at least ten (10) calendar days before the public hearing to each Applicant for a General Plan Amendment Application, as required by the Act.
  - 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 for public hearings before the Commission shall provide notice of each public meeting to consider the adoption or any modification of the General Plan, as presented by a General Plan Amendment Application, as follows:
  - a) Notice of the date, time, and place of each public meeting, at least twenty-four (24) hours before the meeting, which notice shall be:
    - i) Published in a newspaper of general circulation within the Town, and

- ii) Posted in at least three (3) public locations within the Town or on the Town's official website.
  - b) Notice of the date, time, and place of each public meeting shall be provided at least twenty four (24) hours before the meeting to each applicant for a General Plan Amendment Application, as required by the Act.
  - 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 or any modification of the Boulder Town General Plan.

**Section 1903 Required Notice of Public Hearings and Public Meetings to Consider the Adoption or any Modifications of Land Use Ordinances, including this Ordinance, Zoning Districts Map, other Official Maps and Notice of Final Action:**

1. Public Hearings. The Town Clerk for public hearings before the Council and the Planning Commission Secretary for public hearings before the Commission shall provide notice of each public hearing to consider the adoption or any modification of a Land Use Ordinance, including this Ordinance, Zoning Districts Map, or other Official Map, as presented by a Land Use Ordinance Amendment Application, Zoning Districts Map Amendment Application, or Official Map Amendment Application 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) Published in a newspaper of general circulation within the Town.
    - ii) Mailed to each "affected entity" as defined herein and the Act.
    - iii) Posted in at least three (3) public locations within the Town, or on the Town's official website.
  - b) Notice of the date, time, and place of each public hearing shall be mailed at least ten (10) calendar days before the public hearing to each Applicant for a Land Use Ordinance Amendment Application, including an Amendment to this Ordinance, Zoning Districts Map Amendment Application, or Official Map Amendment Application, as required by the Act.
  - 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 for public hearings before the Commission shall provide notice of

each public meeting to consider the adoption or any modification of a Land Use Ordinance, including this Ordinance, Zoning Districts Map, or other Official Map, as presented by a Land Use Ordinance Amendment Application, Zoning Districts Map Amendment Application, or Official Map Amendment Application as follows:

- a) Notice of the date, time, and place of each public meeting, at least twenty-four (24) hours before the meeting, which notice shall be:
    - i) Published in a newspaper of general circulation within the Town, and
    - ii) Posted in at least three (3) public locations within the Town or on the Town's official website.
  - b) Notice of the date, time, and place of each public meeting shall be provided at least twenty four (24) hours before the meeting to each applicant for a Land Use Ordinance Amendment Application, including an Amendment to this Ordinance, Zoning Districts Map Amendment Application, or Official Map Amendment Application, as required by the Act.
  - 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 or any modification of to each Applicant for a Land Use Ordinance Amendment Application, including an Amendment to this Ordinance, Zoning Districts Map Amendment Application, or Official Map Amendment Application.

#### **Section 1904 Required Notice for Other Public Hearings:**

When required by the provisions of this Ordinance for a Land Use Application, the Town Clerk for public hearings before the Council and the Planning Commission for public hearings before the Commission shall provide notice of each public hearing as follows:

1. 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:
  - a) Published in a newspaper of general circulation within the Town.
  - b) Posted in at least three (3) public locations within the Town or on the Town's official website.
2. Notice of the date, time, and place of each public hearing shall be mailed at least ten (10) calendar days before the public hearing to each Applicant.

3. Provide to each Applicant a copy of each staff report regarding the Application at least three (3) business days before the public hearing.
4. Notice of Final Action. The Town Clerk shall notify the Applicant of any final action taken by the Zoning Administrator, Commission, or Council for any Land Use Application.

**Section 1905 Required Notice for Other Public Meetings:**

When required by the provisions of this Ordinance for a Land Use Application, the Town Clerk for public meetings before the Council and the Planning Commission Secretary for public meetings before the Commission, shall provide notice of each public meeting as follows:

1. 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:
  - a) Posted in at least three (3) public locations within the Town; or on the Town's official website.
2. Notice of the date, time, and place of each public meeting shall be provided at least twenty four (24) hours before the meeting to each applicant for a Land Use Application.
3. Provide to each Applicant a copy of each staff report regarding the Application at least three (3) business days before the public meeting.
4. 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 or any modification of a Land Use Ordinance Amendment Application, including an Amendment to this Ordinance, Zoning Districts Map Amendment Application, or Official Map Amendment Application.

**Section 1906 Notice Challenge:**

If notice given under authority of this Chapter, and the authorities of the Act, is not challenged within thirty (30) calendar days after the meeting(s), or action for which notice is given, as required by the Act, the notice is considered adequate and proper.

## **CHAPTER 20 DEFINITIONS**

For the purpose of this Ordinance, certain words are hereby defined as follows:

**Abandon/Abandoned:** Means a use that has been discontinued for a minimum period of one (1) year or a building, structure, sign, or other object that remains vacant or unused for a minimum period of one (1) year.

**Abandonment:** Any act that result in abandon.

**Access:** The provision of vehicular and/or pedestrian ingress and egress to a lot, parcel, building, or structure.

**Act:** Means the “Municipal Land Use, Development, and Management Act,” as provided by Chapter 10-9a, Utah Code Annotated, 1953, as amended.

**Active or Valid Building Permit:** A building permit that has not expired.

**Adjacent:** Meeting or touching at some point, or across a street, alley, or other public or private right-of-way.

**Affected Entity:** Means 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, or the Utah Department of Transportation, if:

1. The entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;
2. The entity has filed with the municipality a copy of the entity's general or long-range plan; or
3. 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 the Act.

**Agent:** The person with written authorization to represent a property owner.

**Agricultural Products:** Products intended for direct human or animal consumption such as vegetables, fruits, dairy products, eggs, grains, meat, poultry, fish, honey, hay, and wool.

**Alteration:** Any change, addition, or modification in construction of a building or structure.

**Appeal Authority:** Means 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.

**Applicant:** The owner of land or the owner's authorized representative.



**Application/Land Use Application:** A written request for an approval and completed in a manner prescribed by this Ordinance for review and decision by a Land Use Authority.

**Application, Complete:** An application that includes all information requested on the appropriate form, and payment of all applicable fees.

**Application, Incomplete:** An application that lacks information requested on the appropriate form, or lacks the payment of all applicable fees.

**As-built Profile:** A map or drawing which depicts a vertical section of a road, street, curb, conduit, or other physical feature as it has been actually constructed.

**Average Percent of Slope:** An expression of rise or fall in elevation along a line perpendicular to the contours of the land, connecting the highest point of land to the lowest point of land within an area or within a lot. A vertical rise of one hundred (100) feet between two points one hundred (100) feet apart, measured on a horizontal plane, is a one hundred (100) percent slope.

**Basement:** That portion of a building between floor and ceiling which is partly below and partly above grade, located such that the vertical distance from grade to floor below is more than the vertical distance from grade to ceiling.

**Beginning of Construction:** The clearing or grading of the land.

**Board of Adjustment:** The Board of Adjustment of Boulder Town, Utah.

**Buildable Area:** The portion of a lot remaining after required yards have been provided, except that land which is considered sensitive land or that has an average grade exceeding fifteen (15) percent shall not be considered buildable area unless it is approved by conditional use permit for construction after study by a geologist, soils engineer, or sanitarian as required by the Planning Commission.

**Building Code:** The International Building Code, as adopted by the Town.

**Building Official:** The person responsible for performing building inspections as required by the adopted Building Code and other applicable Codes.

**Building:** A structure having a roof supported by columns or walls for housing, shelter, or enclosure of persons, animals, or property of any kind.

**Building, Height of:** The vertical distance from the average finished grade surface to the highest point of the building roof or coping.

**Building, Principal:** A building in which is conducted the principal use of the lot on which it is located. In a residential zoning district, any dwelling is deemed the principal building on the lot on which it is situated.

**Carport:** A private garage not completely enclosed by walls or doors. For the purposes of this ordinance, a carport shall be subject to all the regulations prescribed for a private garage.

**Certificate of Occupancy:** A certificate issued by the Town after final inspection and upon a finding that the building, structure, or development complies with all provisions of the applicable ordinances, codes, permits, requirements, and approved plans.

**Charter School:** Includes:

1. An operating charter school;
2. 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
3. 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:** Means the Mayor of Boulder Town, Utah.

**Commission:** The Planning Commission of Boulder Town, Utah.

**Common Open Space:** A parcel of land, an area of water, or a combination of land and water within a site designed and intended primarily for the use or enjoyment of residents, occupants, and owners within that development.

**Conditional Use:** A use of land that, because of its unique characteristics or potential impact on the town, 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; a use of land for which a conditional use permit is required pursuant to this ordinance.

**Constitutional Taking:** Means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by: 1. Fifth or Fourteenth Amendment of the Constitution of the United States; or 2. Utah Constitution Article I, Section 22.

**Construction Plan:** The maps or drawings accompanying an application that show the specific location and design specifications of improvements to be installed in accordance with the requirements of approval.

**Contiguous:** The touching or overlap of two (2) or more use district boundaries or property lines.

**Council:** The duly elected Town Council of Boulder Town, Utah.

**Coverage, Building:** The percent of the total site area covered by buildings.

**Culinary Water Authority:** Means 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.

**Disposal:** The discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid or hazardous waste into or on any land or water so that such waste or any constituent thereof may enter the environment, be emitted into the air, or discharged into any waters, including ground waters.

**Driveway:** A private roadway, the use of which is limited to persons residing, employed, or otherwise using or visiting the parcel on which the driveway is located.

**Dwelling:** Any building or portion thereof designed or used as the more or less permanent residence or sleeping place of one or more persons, but not including a tent, recreational coach, hotel, motel, hospital, or nursing home.

**Easement:** That portion of a lot or lots reserved for present or future use by a person or agency other than the legal owner(s) of said property(ies). The easement may be for use under, on, or above said lot or lots.

**Essential Facilities:** Utilities or sanitary and public safety facilities. All proposed residential or commercial buildings or uses shall be connected to an approved individual septic system.

**Facility:** A structure or place that is built, installed, or established to serve a particular purpose.

**Family:** One (1) or more persons occupying a dwelling unit and living as a single housekeeping unit, as distinguished from a group occupying a Bed and Breakfast, Guest Ranch, Hotel, Motel, or Resort, as herein defined.

**Flood Hazard:** A hazard to land or improvements due to inundation or overflow water having sufficient velocity to transport or deposit debris, scour the surface soil, dislodge or damage buildings, or erode the banks of water courses.

**Floor Area:** Area included within surrounding walls of a building or portion thereof exclusive of vents, shafts, and courts.

**Frontage:** All property fronting on one side of the street, highway, or private road.

**Frontage, Block:** All property fronting on one (1) side of the street between intersecting or intercepting streets, or between a street and a right-of-way, waterway, end of dead-end street, or political subdivision boundary measured along the street line. An intercepting street shall determine only the boundary of the frontage on the side of the street that it intercepts.

**Geologic Hazard:** A hazard inherent in the crust of the earth, or artificially created, which is dangerous or potentially dangerous to life, property, or improvements due to the movement, failure, or shifting of the earth.

**Governing Body:** The elected legislative body of Boulder Town.

**Grading:** Any excavating, filling or combination thereof. Grading is regulated by the appendix chapter titled "Excavation And Grading" of the most current edition of the International Building Code (IBC).

**Hazardous Substances:** As defined in the Utah Solid and Hazardous Waste Rules, Utah Administrative Code R315.

**Hazardous Waste:** As defined in the Utah Solid and Hazardous Waste Rules, Utah Administrative Code R315.

**Identical Plans:** Means building plans submitted to the Town that are substantially identical to building plans that were previously submitted to and reviewed and approved by the Building Official and describe a building that is: 1. Located on land zoned the same as the land on which the building described in the previously approved plans is located; and 2. Subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans.

**Illegal Building/Structure:** A building or structure, or portion thereof, established without securing the necessary approvals, permits, or licenses, as required by this Ordinance, the adopted Building Code, or their prior enactments.

**Illegal Lot:** A lot created that has not received the necessary approvals, permits, or licenses, as required by the Town's Land Use Ordinances.

**Illegal Use:** A use established without receiving the necessary approvals, permits, or licenses, as required by the Town's Land Use Ordinances.

**Importation:** The act or business of bringing in wastes, substances, or materials from a county, state, or country outside the boundaries of Boulder Town.

**Improvements:** Street grading, street surfacing and paving, water mains and lines, water meters, fire hydrants, sanitary sewers, storm drainage facilities, culverts, bridges, public utilities, or other such installations designated by the Planning Commission or Town Council.

**Infectious waste:** A solid waste that contains or may be reasonably expected to contain pathogens of sufficient virulence and quantity that exposure to the waste by a susceptible host could result in an infectious disease.

**Inherently waste-like:** Materials include those listed in 40 C.F.R. 261.2 (c); UHWMR 450-2.1-1., and material that is ordinarily disposed of, burned or incinerated or that

contains toxic constituents which are not ordinarily found in raw materials or products for which the materials substitute and are not used or reused during the recycling process and which may pose a substantial hazard to human health and the environment when recycled.

**Intensity:** The concentration of activity such as combination of the number of people, cars, visitors, customers, hours of operation, outdoor advertising, numbers of buildings, numbers of livestock etc.

**Junk:** Any old or scrap copper, brass, rope, rags, batteries, paper, trash, wood and rubber debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

**Land Use:** The manner in which land is occupied or used.

**Land Use Application:** Means an application required by Boulder Town's Land Use Ordinances, and required to initiate the review procedures for any required approval.

**Land Use Approval:** Any authorization received from a Land Use Authority that permits the commencement of a development activity.

**Land Use Authority:** Means a person, board, commission, agency, or other body designated by the Council to act on a Land Use Application.

**Land Use Ordinance:** Means a planning, zoning, development, or subdivision ordinance of Boulder Town, including this Ordinance, but does not include the Boulder Town General Plan, or any element thereof.

**Land Use Permit:** Means a permit issued by a Land Use Authority.

**Legal Building/Structure:** A building or structure, or portion thereof, established after receiving the necessary approvals, permits, or licenses, as required by the Land Use Ordinances and complying with the requirements of the Land Use Ordinances and Building Code.

**Legal Lot of Record:** Any lot, parcel or tract of land that existed, as recorded in the Office of the Garfield County Recorder, with a separate property identification number as provided by the Office of the Garfield County Recorder and Office of the Garfield County Assessor, prior to the date of the adoption of the first Boulder Town Subdivision Ordinance, and all lots, parcels, and tracts of land that were legally created pursuant to the subdivision requirements of the Town's Land Use Ordinances and the laws of the State of Utah after the date of the adoption of the first Boulder Town Subdivision Ordinance.

**Legal Use:** A use complying with the requirements of this Ordinance.

**Legislative Body:** Means the duly elected Town Council of Boulder Town, Utah.

**Lot:** A parcel of land or unit of land described by metes and bounds and held or intended to be held in separate lease or ownership, or a parcel or unit of land shown as a lot or parcel on a recorded subdivision map or shown on a plat used in the lease or sale or offer of lease or sale of land resulting from the division of a larger tract into two (2) or more smaller units.

**Lot, Corner:** A lot abutting on two (2) intersecting or intercepting streets, where the interior angle of intersection or interception does not exceed one hundred thirty-five (135) degrees.

**Lot, Coverage:** The percentage of the area of a lot which is occupied by all buildings, other impervious surfaces, or other covered structures.

**Lot, Depth:** For lots having front and rear lot lines which are parallel, the shortest horizontal distance between such lines; for lots having front and rear lot lines which are not parallel, the shortest horizontal distance between the midpoint of the front lot line and the midpoint of the rear lot line; and for triangular shaped lots, the shortest horizontal distance between the front lot line and a line within the lot, parallel with and at a maximum distance from the front lot line having a length of not less than ten (10) feet.

**Lot, Illegal:** A lot that has not received the necessary approvals, permits, or licenses, as required by the Town's Land Use Ordinances and state laws, or their prior enactments.

**Lot, Legal:** A lot that has received the necessary approvals, permits, or licenses, as required by the Town's Land Use Ordinances, or their prior enactments.

**Lot, Noncomplying (Legal):** A lot, parcel or tract of land that: (a) Legally existed before its current zoning designation; and (b) Has been shown as a separate lot, parcel, or tract continuously on the records of the Garfield County Recorder as an independent parcel since the time the zoning requirements governing the lot, parcel or tract changed; and (c) Because of subsequent zoning changes does not now conform with the requirements of the zoning district in which the lot, parcel or tract is located.

**Lot, Noncomplying (Illegal):** A lot, parcel or tract of land that: (a) Was created without receiving the necessary approvals, permits, or licenses, as required by the Town's Land Use Ordinances and state laws, and their prior enactments, and (b) Does not conform with the requirements of the zoning district in which the lot, parcel or tract is located.

**Lot, Of Record:** A lot that is part of a subdivision, the plat of which has been recorded in the office of the County Recorder; or a lot, parcel or tract of land, the deed of which has been recorded in the office of the County Recorder.

**Lot, Right of Way:** A strip of land connecting a lot to a street for use as private access to that lot.

**Lot, Width:** For rectangular lots, lots having side lot lines not parallel, and lots on the outside of the curve of a street, the distance between side lot lines measured at the required minimum front yard line on a line parallel with the street or long chord; and for lots on the inside of the curve of a street, the distance between side lot lines measured thirty (30) feet behind the required minimum front yard line on a line parallel with the street or long chord.

**Lot, Line:** Any line bounding a lot.

**Lot Line, Front:** The boundary of a lot which separates the lot from the street; and in the case of the corner lot, the front lot line is the shorter of the two lot lines separating the lot from the street except that where these lot lines are equal or within fifteen (15) feet of being equal, either lot line may be designated the front lot line but not both.

**Lot Line, Rear:** The boundary of a lot which is most distant from, and is, or is most nearly, parallel with the front lot line; except that in the absence of a rear lot line as is the case of the triangular shaped lot, the rear lot line may be considered as a line within the lot, parallel with and at a maximum distance from the front lot line, having a length of not less than ten (10) feet.

**Lot Line, Side:** The boundary of a lot that is not a front lot line or a rear lot line.

**LUDMA:** Means the “Municipal Land Use, Development, and Management Act,” as provided by Chapter 10-9a, Utah Code Annotated, 1953, as amended.

**Manufactured Home:** A transportable, factory-built housing unit constructed on or after June 15, 1976, according to the Federal Home Construction and Safety Standards Act of 1974 (HUD Code), in one or more sections, and when erected on site, the home must be at least 20 feet in width at the narrowest dimension, have exterior and roofing materials acceptable to the International Building Code (IBC) and be located on a permanent foundation and connected to the required utilities, including plumbing, heating, air conditioning and electrical systems. A Manufactured Home shall be identified as real property on the property assessment rolls of Garfield County. All manufactured homes constructed on or after June 15, 1976, shall be identified by the manufacturer’s data plate bearing the date the unit was manufactured and a HUD label attached to the exterior of the home certifying the home was manufactured to HUD standards.

**Mobile Home:** A transportable, factory built home, designed as a year-round residential dwelling, and built prior to June 15, 1976, the effective date of the National Manufactured Housing Construction and Safety Standards Act of 1974.

**Natural Waterways:** Those areas varying in width along streams, creeks, gullies, springs, faults or washes which are natural drainage channels as determined by the Zoning Administrator, and in which areas no buildings shall be constructed.

**Nominal Fee:** Means a fee that reasonably reimburses the Town only for time spent and expenses incurred in: 1. Verifying that building plans are identical plans; and 2. Reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

**Noncomplying Structure:** A structure that: 1. Legally existed before its current land use designation; and 2. 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: 1. Legally existed before its current land use designation; 2. Has been maintained continuously since the time the land use ordinance governing the land changed; and, 3. Because of one or more subsequent Land Use Ordinance changes, does not conform to the regulations that now govern the use of the land.

**Nuisance:** Any use or activity which emits noise, smoke, dust, odor or vibration in amounts sufficient to substantially depreciate values of surrounding buildings or lands or a use or activity which substantially deprives the owners of adjoining property of a property right.

**Official Map:** A map adopted by the Council and recorded in the Garfield County Recorder's Office that: 1. Shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities; 2. 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, 3. Has been adopted as an element of the Boulder Town General Plan.

**Official Zoning Map/Zoning Districts Map:** The map adopted by the Council showing the geographic location of zoning districts.

**Open Space:** Open Space shall be defined as different, separate types dependent upon occupancy, use, and control. All types of open space are referred to collectively as "open space" in this ordinance. Any of these types of open space could be public or private open space. They shall include:

**Recreational Open Space:** Parks and areas of active recreation use, to include trails and all uncovered recreational facilities.

**Landscaped Open Space:** Landscaped areas free of building, parking lots, and driveways.

**Natural Open Space:** Natural, undisturbed areas with little or no improvements or irrigation.

**Agricultural Open Space:** Open lands left undisturbed or dedicated primarily as usable agricultural lands for farming and ranching purposes.



**Parking Lot:** An open area, other than a street, used for the parking of more than four (4) automobiles and available for public use, whether free, for compensation, or accommodation for clients or customers.

**Permitted Use:** A use of land for which no conditional use permit is required.

**Planning Commission:** The Planning Commission of Boulder Town, Utah.

**Plat:** Means a map or other graphical representation of lands being laid out and prepared in accordance with Section 10-9a-603, Section 17-23-17, or Section 57-8-13, Utah Code Annotated, 1953, as amended.

**Plat, Final:** A drawing prepared in accordance with the Land Use Ordinances showing the final design of a land division and complying with all standards and requirements of best surveying practice and in a form required by the Garfield County Recorder's Office for recordation.

**Plat, Preliminary:** A drawing prepared in accordance with the Land Use Ordinances showing the design of a proposed land division.

**Plot Plan:** A plat of a lot, drawn to scale, showing its actual measurements, the size and location of any existing buildings or buildings to be erected, the location of the lot in relation to abutting streets, and such other information as may be required by the Town of Boulder Planning Commission.

**Principal Use:** The primary purpose or function for which a parcel is used.

**Proposed (Future) Land Use Map:** A map designed to show the acceptable or anticipated change of land use.

**Public:** That which is under the ownership or control of the United States Government, Utah State or any subdivision thereof, Garfield County, or Boulder Town (or any departments or agencies thereof).

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

**Public Improvement:** Any street dedications, installations of curb, gutter, sidewalk, road base and asphalt, water, sewer, and storm drainage facilities, or other utility or service required to provide services to a lot, parcel, building, or structure.

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

**Quasi-Public Use:** A use operated by a private nonprofit, educational, religious, recreational, charitable, or philanthropic institution, such use having the purpose primarily of serving the public, such as churches, private schools and universities and similar uses.

**Record of Survey Map:** A map of a survey of land prepared in accordance with Section 17-23-17, Utah Code Annotated, 1953, as amended.

**Right-of-Way:** Land occupied or intended to be occupied by a public or private trail, road, or other public transportation use; or railroad, electric transmission line, or other utility uses.

**Right of Way (Lot):** A strip of land not less than sixteen (16) feet in width connecting a lot to a street for use as private access to that lot.

**Road:** A public or private thoroughfare that affords a means of access to abutting property.

**Sanitary Sewer Authority:** Means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

**Setback:** The required minimum distance between the building and the related front, side, or rear lot line.

**Sign:** Any device for visual communication, including any structure or natural object or part thereof that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge, or insignia of any government or governmental agency, or any civic charitable, religious, patriotic, fraternal, or similar organization.

**Definitions:**

- a) **A-Frame Sign.** Any sign or structure composed of two (2) sign faces mounted or attached back-to-back in such a manner as to form a triangular vertical cross-section.
- b) **Altered.** A sign that is raised, moved, extended, or enlarged.
- c) **Animated Sign.** Any sign which is designed and constructed to give its message through movement or semblances of movement created through a sequence of progressive changes of parts, lights, or degree of lighting; exhibits a string of lights for the purpose of attracting attention; or contains flashing, blinking, moving, or glaring illumination.
- d) **Back-Lighted Signs.** Any sign that is illuminated by a light source that emanates from behind the sign face.
- e) **Billboard.** A structure designed, intended, or used for advertising a project, property, business, entertainment, service, amusement, or the like and not located on the premises where the matter advertised is available or occurs.

- f) **Building.** Any structure used or intended to be used for the shelter or enclosure of persons, animals, or property.
- g) **Building Face.** The visible outer surface of a main exterior wall of a building.
- h) **Building Sign.** A sign attached or painted on the exterior walls of a building.
- i) **Canopy or Marquee.** A canopy or marquee shall mean and include any roofed structure attached to and supported by a building and projecting out from the building wall.
- j) **Co-Located Directional Sign.** A sign, located at a directional sign location and provided to allow the for directional information for business located within Boulder Town, which does not exceed five feet in length by sixteen inches in width (5' x 16") and where the total area of all co-located directional signs does not exceed thirty-six (36) square feet at one (1) directional sign location.
- k) **Directional Sign.** A sign, not exceeding thirty-six (36) square feet, and provided to allow directional information for business located within Boulder Town.
- l) **Directional Sign Location.** A location provided for the establishment of directional signs and limited to the corners of the intersection of Highway 12 and the Burr Trail. The total area of all directional signs allowed at each corner shall not exceed thirty-six (36) square feet.
- m) **Directory Sign.** A sign erected on a building wall at the ground floor level and containing name identification for more than one activity or business located on a single premises.
- n) **Double-faced Sign.** A free-standing sign with two identical, opposing sign faces shall count as one (1) free-standing sign.
- o) **Erect.** To build, construct, place, relocate, enlarge, substantially alter, attach, suspend, paint, post, or display. Normal maintenance, including refinishing, is not included in this definition provided the sign copy is not changed or altered.
- p) **Free-standing Sign.** Any sign that is standing on or erected into the ground. Such signs are usually supported from the ground by one or more posts or similar uprights with or without braces.
- q) **Illegal Sign.** Any sign which does not conform to the requirements of this Ordinance and was constructed or installed without the necessary approvals, permits, or licenses required by this Ordinance, or prior enactments.
- r) **Legal Sign.** A sign that conforms to the requirements of this Ordinance and has received all necessary approvals, permits, or licenses, as required by this Ordinance, or prior enactments.
- s) **Off-Premises Sign.** Any sign which advertises products, services, or business establishments which are not located, conducted, manufactured, or sold upon the same premises upon which the sign is erected.

- t) **On-Premises Sign.** Any sign which advertises products, services, or business establishments which are located, conducted, manufactured, or sold upon the same premises upon which the sign is erected.
- u) **Outdoor Advertising Structure.** A structure erected and maintained for outdoor advertising purposes upon which a poster, bill, printing, or painting may be placed to advertise products, goods, services, or business establishments for those located, conducted, manufactured, or sold upon the premises on which the structure is erected.
- v) **Parapet Sign.** A sign located on any extension of the walls of the building above the connection of the roof structure to the building walls.
- w) **Person.** Includes a firm, association, organization, partnership, trust company, or corporation, as well as individual, but does not include a governmental unit.
- x) **Premises.** The parcel of property on which the business is located.
- y) **Projecting Sign.** An outdoor sign which is attached to a building or structural wall at an angle.
- z) **Property.** Land or real estate, with or without structures; not goods or services.
- aa) **Public Way or Public Right-of-Way.** Any way designed for vehicular or pedestrian use and maintained with public funds.
- bb) **Roof Sign.** Any sign which is erected upon or over the roof or over a parapet of any building or structure.
- cc) **Sign.** A sign is an object, device, or structure or part thereof situated outdoors or displayed in a window visible from a public way, free standing or attached, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, designs, symbols, advertising flags, fixtures, colors, illuminations, or projected images.
- dd) **Sign Area.** The area which encompasses the sign face, including copy, insignia, background, and borders.
- ee) **Sign Face.** The surface of a sign visible from the public way. Each sign face counts as one sign. Exception: See Double-faced Sign.
- ff) **Temporary Sign.** A sign or advertising display intended to be displayed for a maximum period of 120 days.
- gg) **Visible.** Capable of being seen without visual aid by a person of normal visual acuity.
- hh) **Wall Sign.** Any sign posted, painted upon, or otherwise affixed to a wall, fascia, canopy, or marquee.

- ii) **Wind Sign.** Any propeller, whirligig, pennant, flag, banner, or similar commercial device which is designed to flutter, rotate, or display other movement under the influence of wind.
- jj) **Window Sign.** A sign fastened to, or painted on the window of a building or structure in such a manner that the window becomes the supporting structure for, or forms the background surface of, the sign.

**Site Plan:** A plan required by and providing the information required by this ordinance.

**Slope:** The level of inclination of land from the horizontal determined by dividing the horizontal run of the slope into the vertical rise of the same slope and converting the resulting figure into a percentage value. For purposes of regulation and measurement, slopes must cover at least twenty-five (25) feet vertically and fifty (50) feet horizontally.

**Solid Waste:** (as per Utah Code Annotated § 19-6-102(16)) means any garbage, refuse, sludge, including sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, or agricultural operations and from community activities but does not include solid or dissolved materials in domestic sewage or in irrigation return flows or discharges for which a permit is required under Title 19, Chapter 5, Water Quality Act, or under the Water Pollution Control Act, 33 U.S.C., Section 1251, et seq. A solid waste is considered a hazardous waste if it is listed as hazardous or if it exhibits any one of the hazardous characteristics set forth hereafter. "Hazardous waste" (as per Utah Code Annotated § 19-6-102(9)) means a solid waste or combination of solid wastes which, because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

“Solid waste” does not include any of the following wastes unless the waste causes a public nuisance or public health hazard or is otherwise determined to be a hazardous waste:

- (i) certain large volume wastes, such as inert construction debris used as fill material;
- (ii) drilling muds, produced waters, and other wastes associated with the exploration, development, or production of oil, gas, or geothermal energy;
- (iii) fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;
- (iv) solid wastes from the extraction, beneficiation, and processing of ores and minerals;
- or
- (v) cement kiln dust.

**Special District:** An entity established under the authority of Title 17A, Special Districts, Utah Code Annotated, 1953, as amended, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or unit of the state.

**Specified Public Utility:** Means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1, Utah Code Annotated, 1953, as amended.

**Storage:** The actual or intended containment of solid or hazardous waste either on a temporary basis or for a period of years in such a manner as not to constitute disposal of such waste.

**Story:** That portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the surface of such floor and the ceiling or roof above it.

**Story, Half:** A partial story under a gable, hip, or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls do not extend more than four (4) feet above the floor of such story, and the ceiling area of which does not exceed two-thirds (2/3) of the floor area of the same half story.

**Street Line:** The boundary which separates the right-of-way of a street from the abutting property.

**Structural Alteration:** Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any rebuilding of the roof or exterior walls.

**Structure:** Anything constructed or erected which requires location on the ground or attached to something having location on the ground, but not including tents, vehicles, travel trailers or mobile homes.

**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.

**Substantial Modification:** A change that significantly alters the impacts and/or character of a structure, development, or use.

**Town Attorney:** Means an attorney admitted to practice law in the State of Utah and so appointed by the Council.

**Town Engineer:** Means a registered Civil Engineer so appointed by the Council.

**Town Recorder:** Means the person so appointed by the Council.

**Treatment:** A method, technique, or process designed to change the physical, chemical, or biological character or composition of any solid or hazardous waste so as to neutralize such waste or so as to render such waste non-hazardous, safer for transport, amenable for recovery, amenable to storage, or reduced in volume.

**Use:** The purpose or purposes for which land or a building is occupied, maintained, arranged, designed, or intended.

**Variance:** Permission from the Board of Adjustment to depart from the development requirements of this Ordinance including setbacks, side yards, and frontage requirements and if such permission is not granted would render the property unusable.

**Yard:** The open space at grade level between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided in this Ordinance. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot line and the principal building is to be used; however, on any lot wherein a setback line has been established by the regulations of this Ordinance for any street abutting the lot, such measurement is to be taken from the principal building to the setback line.

**Yard, Front:** A yard extending across the front width of a lot and being the minimum horizontal distance between the street line and the principal building or any projection thereof, other than steps, unenclosed balconies, and unenclosed porches. The front yard of a corner lot is the yard adjacent to the designated front lot line.

**Yard, Rear:** A yard extending between the side yards of a lot or between the side lot lines in the absence of side yards, and being the minimum horizontal distance between the rear lot line and the rear of the principal building or any projection thereof, other than steps, unenclosed balconies or unenclosed porches. On corner lots and interior lots, the rear yard is in all cases at the opposite end of the lot from the front yard.

**Yard, Side:** A yard between the building and the side lot and extending from the front yard to the rear lot line as defined or along the full depth in absence of front and rear yards and being the minimum horizontal distance between a side lot line and the side of the principal building or any projection thereof, other than steps, unenclosed balconies or unenclosed porches. An interior side yard is defined as the side yard adjacent to a common lot line.

**Zoning District:** Any portion of the incorporated area of Boulder Town in which the same zoning regulations apply.

**Zoning Districts Map**

**Appendix A**