

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE BOULDER TOWN SUBDIVISION ORDINANCE TO REQUIRE CULINARY WATER FOR LOTS AND AN ALTERNATE MEANS OF INFRASTRUCTURE CONSTRUCTION.

WHEREAS the Town of Boulder finds it beneficial to the health, safety and welfare to assure that culinary water is provided for each lot in a proposed subdivision;

WHEREAS the Boulder Town Planning Commission has reviewed and recommended the changes and amendments herein; and

WHEREAS, the Boulder Town Council finds good cause to amend the Ordinances as set forth below.

NOW THEREFORE, be it ordained by the Boulder Town Council as follows:

Section 400, PRELIMINARY SUBDIVISION APPLICATION and Section 700, SUBDIVISION CONSTRUCTION, of the Boulder Town Subdivision Ordinance is hereby amended and supplemented as follows:

1. Section 400-2(7) is hereby amended as follows:

7. Evidence of Availability of Necessary Services.

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

a. Culinary Water Requirements.

The South West Utah Public Health Department, or the Utah Department of Environmental Quality, as applicable, identified herein as the "Culinary Water Authority," shall review and approve the feasibility of the culinary water system and sources for the subject property. The Town of Boulder shall review and approve the applicant's ability to provide culinary water or water rights to each lot in the subdivision. The Preliminary Plat shall not be approved without the applicant providing culinary water to each subdivision lot in the form of (a) a binding contract with Boulder Farmstead Water for one connection for each lot in the subdivision, or (b) proven underground water rights on file with the Utah State Engineer's Office sufficient to provide and dedicate one single family culinary water right to each lot in the proposed subdivision from an approved underground source. It shall be the responsibility of the applicant to provide information and materials as required by South West Utah Public Health Department, the Utah Department of Environmental Quality, Utah State Engineer's Office and the Town of Boulder, necessary to review

and approve the feasibility, availability and written commitments for culinary water to each lot in the proposed subdivision.

2. Section 700 is hereby amended as follows

SECTION 700. SUBDIVISION CONSTRUCTION.

Section 700-1. Construction of Required Subdivision Improvements.

Construction of any required subdivision improvements, including infrastructure and facilities, necessary to meet the requirements of this Ordinance, and any conditions required by the Town Council for final subdivision approval, shall comply with the public infrastructure construction and design requirements, as established by the Town Council. The Town of Boulder, in its sole discretion, shall have the option to either:

(a) require the applicant to either post assurances as required under Section 700-4 below, or

(b) impose conditions upon the approval of the Preliminary Plat in the form of a development agreement to provide, install and pay for all infrastructure before the Final Plat can be signed by the Town, filed with the Garfield County Recorder's Office, and individual lots in the subdivision sold or offered for sale.

Section 700-2. Proceeding With Subdivision Construction.

Following the recording of the final subdivision plat in the office of the Garfield County Recorder as set forth in Section 700-1(a), or approval of the Preliminary Plat and development agreement as set forth in Section 700-1(b), the landowner may proceed with construction of the subdivision. However, no improvements shall be installed until their location and "cut sheets" have been approved by an engineer representing the Town ("town engineer"), whose services shall be paid for by the applicant. Water mains, sewer lines, laterals, drainage facilities, and fire hydrants shall be installed and tested prior to the surfacing of roads and the installation of road base. A preconstruction meeting may be held, as directed by an engineer approved by the Town, prior to the installation of any public improvements.

Section 700-3. As-Built Drawings.

At the completion of subdivision construction (and prior to final escrow release or recordation of the Final Plat as the case may be under Section 700-1), the landowner shall deliver to an engineer approved by the Town two (2) sets of "as-built" drawings. These drawings shall show all approved changes made during construction and provide physical ties for all water lines, valves, sewer lines, manholes, etc. No bonds held by the Town will be released until the as-built drawings are received by an engineer approved by the Town.

Section 700-4. Guarantees and Escrow Bond (if applicable).

Based on a cost estimate submitted by the applicant's engineer, an engineer approved by the Town will prepare the bond estimate, revising the costs as required to match prevailing conditions for the construction and installation of all required

public improvements, and including a twenty percent (20%) contingency fee. An escrow bond and public improvement agreements bond payment, and inspection fees shall be submitted to an engineer approved by the Town before the final subdivision plat is recorded by the Town Clerk.

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

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

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

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

Section 700-5. Subdivision Construction and Improvement Inspections.

An engineer approved by the Town, the town engineer, shall inspect, or cause to be inspected, all public improvements and facilities, including but not limited to all water supply and sewage disposal systems in the course of construction, all streets and roads, all drainage and flood control facilities, all fire hydrants, and all other

subdivision improvements and facilities. Excavations for fire hydrants and water and sewer mains and laterals, drainage and flood control facilities shall not be covered or backfilled until such installations have been approved by an engineer approved by the Town. If any such installation is covered before being inspected, it shall be uncovered after notice to uncover has been issued to the responsible person by an engineer approved by the Town.

3. That the town clerk or recorder is hereby ordered, in accordance with the requirements of Section 10-3-711, Utah Code Annotated, 1953, as amended, to do as follows:

A. Cause a copy of this ordinance to be deposited in the office of the town recorder; and

B. Either:

(1) Cause a short summary of this ordinance to be published for at least one publication in _____, a newspaper of general circulation within Boulder Town;

or

(2) Cause to be posted a complete copy of this ordinance in three (3) public places within Boulder Town.

APPROVED and PASSED this ____ day of _____, 20__.

ATTEST:

BOULDER TOWN

Judi Davis
Boulder Town Clerk

Steve Cox, Mayor

VOTE

_____, Councilperson
_____, Councilperson
_____, Councilperson
_____, Councilperson

ADOPTION OF ORDINANCE AFFIDAVIT (MUNICIPAL)

STATE OF UTAH)

: ss.

COUNTY OF GARFIELD)

I, the undersigned, the duly qualified and acting Town Clerk of Boulder Town, Garfield County, Utah, do hereby further certify, according to the records of said Town Council in my official possession, and upon my own knowledge and belief, that I have fulfilled the requirements of Section 10-3-711, Utah Code Annotated, 1953, as amended, by:

(a) Causing one (1) copy of this ordinance to be deposited in the office of the Town Recorder; and

Either

(b1) Causing a short summary of this ordinance to be published for at least one publication in _____, a newspaper of general circulation within Boulder Town;

or

(b2) Causing to be posted a complete copy of this ordinance in three (3) public places within Boulder Town.

IN WITNESS WHEREOF, I have hereunto subscribed my official signature and impressed hereon the official seal of Boulder Town, Utah, this ___ day of _____, 20__.

[Seal]

Judi Davis
Boulder Town Clerk