

## MEMO

TO: Boulder Planning Commission, interested parties

FROM: Lee Nellis, FAICP

DATE: February 3, 2022

### **SUBJECT: Ordinance Changes, First Installment**

Here is a summary of some of the changes that should be made in Boulder's land-use regulations to comply with Utah law and to address practical issues that became obvious as I checked for consistency with state law. This summary is followed by draft ordinances. I wanted to get this out now so I could spend time on the minor subdivision question before your next meeting. That means there will be a second memo with more of these changes.

**Ahead of the Game?** Yes! Boulder's adoption of commercial development standards anticipated a change by the Legislature. UCA §10-9a-507. Conditional Uses was revised to require that standards for conditional uses be "objective." This was the Legislature's response to the vague CUP language that Boulder once shared with most other cities.

**Vested Rights.** A vested right is the right to continue with a project in compliance with the rules that applied to its approval, even if those rules change before it is complete. Boulder was not in compliance with state law on vested rights even before last year's legislative session. Figuring out how to bring the town into compliance necessitated looking at the building ordinance as well as the subdivision and zoning ordinances. The timelines adopted in that ordinance are not consistent with the law on vested rights. They are also impractical for complex projects. The first draft ordinance you see below addresses these problems.

**Land Divisions.** The second ordinance presented here responds to issues with how the Town addresses land divisions.

"Subdivision" is defined in three places, NONE of which is the definitions section of the subdivision ordinance.

The Legislature rewrote the law on parcel boundary adjustments. This led me to discover that a person looking for "parcel boundary adjustments" in the Town's ordinances can find that topic only by looking in the exceptions to the definition of "subdivision." Is that where you would look?

The changes re parcel boundary adjustments also raise a question. The current regulations exempt parcel boundary adjustments that do not violate a land use ordinance. Because there is no associated review procedure, that exemption has had no effect, and it has now been superseded. Municipalities may regulate parcel boundary adjustments only if a dwelling is involved. Do you want to do that? The reason to review parcel boundary adjustments is that you might find an attempt to evade the subdivision regulations or create a non-conforming lot. That's most likely to happen on vacant land, though, where you can't regulate it. I don't think Boulder needs to review parcel boundary adjustments at this time, but wanted to be sure you were aware of the choice.

The Legislature made changes re the amendment of subdivision plats, a topic on which Boulder's ordinances are nearly silent. Since the law requires the Town to respond to petitions for plat amendments, I added procedures for doing that.

**Streets/Roads.** The Legislature made a change limiting the width of certain minor subdivision streets. Those changes will not affect anything that is currently in Boulder's ordinances, nor will they affect our discussion of private driveways.

**Definitions.** We should continue the process of making Boulder's definitions consistent with those used by the state. Even more so, we need to eliminate redundancies and internal inconsistencies. This is taking a lot of time! What you see below is a first installment. Much more work on definitions will follow.

**Cross-References.** I'm not sure I've ever worked on ordinances where the terms used for cross-reference are so inconsistent. I'm going to begin using the single term, "this code", where I do not cite a specific section. This will eliminate terms like "this chapter," "this ordinance," etc. that may be too specific or have been outdated by the codification. I'm also going to change generic references to state law to exactly that, "state law" rather than to "the Act," or other terms that can be superseded.

None of these changes should be controversial. They're boring, but will be helpful when the questions they answer arise. I have split the proposed changes into separate, topical ordinances, hoping that will help keep discussion and adoption moving along. The real work with subdivisions is still going to come in areas we have been discussing for some time: 1. establishing a minor subdivision procedure that allows private driveways (and possibly other forms of flexibility) for small developments, and 2. coming up with better language for "cluster" subdivisions.

## **Draft Vested Rights Ordinance**

The current subdivision ordinance is silent on this subject. It is briefly addressed in the zoning: see §153.052 and §153.054. It is also addressed in the building regulations, §151.11, in a way that is sure to be confusing. The public interest here is that developments proceed as they were approved, with any alteration requiring approval. The landowner interest here is in being able to build without having the rules change after approval has been obtained, but before a project is complete. These needs are not well addressed in the current code. Because this topic must be addressed in the building, zoning, and subdivision ordinances, adding a new chapter that supports all three will avoid repetition.

### **AN ORDINANCE \_\_\_\_\_ CLARIFYING VESTED RIGHTS IN DEVELOPMENT IN BOULDER TOWN**

*Please note that the italicized language included here is NOT part of the proposed ordinance. It is included for explanatory purposes. It will not appear in the adopted version.*

WHEREAS: Boulder Town desires to keep its land-use regulations consistent with state law;  
and

WHEREAS: the Town code fails to provide clear, practical direction about vested rights and the relationship of vested rights to permit approvals;

BE IT HEREBY ORDAINED THAT THE BOULDER TOWN CODE OF ORDINANCES IS AMENDED AS FOLLOWS:

**Revise §151.11 as follows:**

**~~§151.11 TIME PERIODS IN WHICH LICENSEES MUST COMMENCE AND COMPLETE CONSTRUCTION OF APPROVED BUILDING PROJECTS~~ HOW LONG IS A BUILDING PERMIT VALID? IS THERE A DEADLINE FOR THE COMPLETION OF CONSTRUCTION?**

~~(A) Each person or entity that has obtained project approval from the town for a building project governed by §§ 151.01 through 151.10 must within 60 days after obtaining project approval apply for a building permit for the project from the County Building Inspector.~~

*Beyond the fact that “project approval” is only implicitly defined (§151.01), this is both inconsistent with the law of vested rights and impractical. Why does a developer have just 60 days to apply for a building permit? Suppose I obtain a CUP for the bean company we used as an example when talking about the commercial development standards? That project included multiple buildings that are almost certainly not going to be started at the same time, but for which my lender and I are going to want approval before ground is broken. The entire project could take three years. So, the new chapter on vested rights establishes the duration of vested rights and this language now begins where it should, with building permits.*

The final step in obtaining permits for any development that is subject to the codes adopted in §151.10 and §35.01 is to obtain a building permit, as provided here in Chapter 151 and in the applicable code/s. The Wildland Interface code was not added to the list of adopted uniform codes, so it was necessary to cite two sections here.

~~(A) Each person or entity that has obtained project approval and a building permit for building projects governed by §§ 151.01 through 151.10 must commence Construction of the project must begin within 180 days after the date of issuance of the a building permit. Construction ~~will be deemed to have commenced~~ begins when clearing, grading, excavation, and/or the installation or erection of site improvements or buildings materials has commenced at the location site of the project begun and is being diligently pursued.~~

~~(B) Each person or entity that has obtained project approval and a building permit for building projects governed by §§ 151.01 through 151.10 must complete Construction of the project must be completed within 18 months after the date of issuance of the a building permit. Construction will be deemed to have been completed when an occupancy or use permit has been issued by the County Building Inspector or if the project is one for which ~~occupancy or use~~ such permits are not required, the project has passed final inspection. ~~by the County Building Inspector. The 18 month deadline could be a problem, but no one wants projects to sit around unfinished forever, so it's a~~~~

*good compromise. An extension can be requested. Final inspection might not be by the building inspector. Where site improvements are the last thing completed, it might be by an engineer retained by the Town.*

(C) ~~If any either of the time periods established by this section here expire or are not extended as allowed by (D), below, without timely compliance by the applicant with the requirements of this section, the project approval previously issued by the town for the building project will be automatically withdrawn, which will invalidate the building permit issued by the county will expire. In such case, (1) Where no vested rights remain, all fees paid to obtain project approval will be deemed forfeited and the applicant will be required to obtain project approval fulfill any conditions associated with abandoning the project. New development on the site will require new approvals, subject to the most current regulations and fees. (2) Where vested rights do remain, the applicant must obtain an amended approval as provided by §154.06 of this code, then obtain a new building permit. In such case, each applicant will also be required to comply with all laws, ordinances, building and other codes applicable to the project, including those that have become enforceable since the original project approval was granted. The Town Council will need to add fees for amended approvals to its fee resolution.~~

(D) ~~The Town Council may extend either of the time limits established by this section may be extended by the Town Council to a date certain for good cause shown upon in response to a written request in which the applicant shows reasonable cause for the extension. by the applicant made Such requests must be made filed with the Administrator at least 30 days prior to the expiration of the applicable time limit.~~

~~All building projects for which the town gave project approval prior to enactment of this section and for which construction has commenced but is uncompleted must be completed within 18 months of the effective date of this section or project approval will be deemed to have terminated.~~

(E) ~~All building permits issued prior to the enactment of this section will be deemed to have terminated 90 180 days after the its effective date of this section unless construction has been started prior to that date begun.~~

**Delete §153.052 and §153.054 in their entirety. Renumber accordingly. Add a new chapter, as follows:**

## **CHAPTER 154: VESTED RIGHTS**

**§154.01. WHAT IS THE PURPOSE OF THIS CHAPTER?** This chapter defines ‘vested rights’, explains how they are established, and addresses changes that may be proposed as development proceeds. This chapter applies to all approvals provided for by this code.

**§154.02. WHAT IS A VESTED RIGHT? WHEN IS ONE ESTABLISHED?** A vested right is the right to build in compliance with previously approved plans and permits regardless of subsequent changes in the code. A vested right is established on the date that the approved

plans were deemed complete by the Administrator if those plans were ultimately approved as required by this code and all fees paid.

**§154.03. DO VESTED RIGHTS EXEMPT DEVELOPMENT FROM CHANGES IN BUILDING CODES?** Usually not. Vested rights only provide protection from changes in land-use regulations. Changes in building codes usually still apply. There is a 10-year exemption in state law for single-family dwellings built on an approved subdivision lot.

**§154.04 MUST I BUILD IN STRICT ACCORD WITH THE APPROVED PLANS?** Yes. All representations made on application forms and in the drawings and other materials that accompany any application are binding. This means that the applicant must build the project as it is described and depicted in the plans as they were approved, including revised final plans showing compliance with all conditions of approval.

- (A) Failure to build in accord with the approved final plans, including revised final plans showing compliance with conditions of approval, is a violation. A fine may be imposed and the applicant may be required to remove work that is not in accord with the approved final plans.
- (B) It is understood, however, that changes may be necessary as development proceeds. The applicant must submit revised plans showing minor proposed changes to the Administrator for review and approval **BEFORE** those changes are made. See §154.05. Substantial changes from approved plans may require a new approval. See §154.06.

**§154.05 WHAT IF A MINOR CHANGE FROM THE APPROVED PLANS IS NEEDED?** The Administrator may permit minor changes to approved final plans as provided here.

- (A) Minor Dimensional Changes: The Administrator may permit minor dimensional changes that do not result in a violation of this code or of any condition imposed on the project's approval, or in a substantial change, as defined in §154.06. *For example, the Administrator could permit a builder to shift the location of a driveway or sidewalk by a foot or two to better protect the roots of an existing tree.*
- (B) Minor Materials Changes: The Administrator may permit substitutions for proposed materials if the proposed substitution has the same appearance and performance as the material originally approved. *For example, the Administrator could allow a change in the brand of outdoor light fixtures proposed for a parking area, if (and only if) the proposed substitute is essentially the same.*
- (C) Referral of Minor Changes. The Administrator may seek the advice of the Planning Commission about any proposed minor change at its next regular meeting before deciding whether to approve or deny that proposed change.

**§154.06 WHAT IF A SUBSTANTIAL CHANGE FROM THE APPROVED PLANS IS NEEDED?** You must apply for an amended approval if you propose to make a substantial change in an approved development.

- (A) A substantial change would change the approved use to a use with more potential impact on the environment or community; the location or extent of a proposed open space that is required for compliance with this code; the location or extent of the area that will be cleared, graded, or otherwise disturbed by more than 1,000 square feet (a smaller change in that area is a minor dimensional change that may be reviewed by the Administrator); the extent or design of required improvements, public or private, including, but not limited to, runoff and erosion control measures, utilities, parking areas and access drives, roads, trails, sidewalks, street trees and landscaping; the approved number of lots, buildings, structures, units, or bedrooms; or the approved location, number, type, and size of signs, except that the Administrator may permit minor changes in the location of directional signs.
- (B) An amended approval follows the same procedures required for the original approval, including a public hearing if one was required, but discussion and action by the Planning Commission and/or Town Council are confined to the proposed change/s.
- (C) The Planning Commission may, upon review of a proposal to amend an original approval: (1) find that the approved amendment complies with all requirements of this code and approve it, adding any conditions it finds necessary to ensure compliance, or (2) adopt written findings determining that substantial differences between the proposed amendment and what was originally approved constitute a new development for which full review and a new approval is required.

**§154.07 DO VESTED RIGHTS EVER EXPIRE?** They can. State law provides that development must be pursued with “reasonable diligence” or vested rights be lost.

- (A) For the purposes of this code, “reasonable diligence” will lapse if a building permit has not been obtained for some phase of an approved development within one year, or
- (B) if construction for which a building permit was issued is not completed or extended within 18 months after it has begun, or if work on site improvements for which a building permit was not required essentially cease or their approval is not extended for 18 months. See §151.11.

## **Proposed Amendments Regulating Land Divisions**

*Please note that the italicized language included here is NOT part of the proposed ordinance. It is included for explanatory purposes and will not appear in the adopted version of the ordinance.*

### **AN ORDINANCE \_\_\_\_\_ AMENDING BOULDER TOWN’S SUBDIVISION REGULATIONS**

WHEREAS: Boulder Town can implement its general plan and protect the public interest during development only via the effective regulation of land divisions;

WHEREAS: Boulder Town's current requirements for parcel boundary adjustments have been partially superseded by changes in state law and also require substantial clarification;

WHEREAS: Boulder Town fails to provide a process for the amendment of subdivision plats, as required by state law; and

BE IT HEREBY ORDAINED THAT THE BOULDER TOWN CODE OF ORDINANCES IS AMENDED AS FOLLOWS:

**Revise 152.005 as follows:**

**§152.005 “SUBDIVISION” DEFINED; SUBDIVISION IS TOWN APPROVAL REQUIRED FOR ALL SUBDIVISIONS? DEVELOPMENT APPROVALS AND BUILDING PERMITS.**

~~—(A) For the purposes of this chapter, and the Act, *SUBDIVISION* shall be and shall mean:~~

~~—(1) Any land that is divided, resubdivided or proposed to be divided into two 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.~~

~~—(2) *SUBDIVISION* includes:~~

~~—(a) The division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat or other recorded instrument; and~~

~~—(b) Except as provided in § 152.006 of this chapter, divisions of land for residential and non-residential uses, including land used or to be used for commercial, agricultural and industrial purposes.~~

*Following the principle that we have used in the past, we will not combine definitions into rules or standards. “Subdivision” will appear in the definitions chapter.*

Yes. No person shall subdivide any land except in compliance with all applicable requirements of this code, specifically including the requirements of this chapter.

~~(A) nor shall any No building permit shall be issued by the town for uses, buildings or any other improvements on any lots, plots, parcels, or sites, units, which is located wholly or in part within the municipal boundaries of the town, except in compliance with that was created in violation of this chapter this code, and all applicable local, state, and federal laws. This is the Town code. It goes without saying that the Town is the actor. It goes without saying that other laws apply. State laws will be cited only when compliance with them supports the administration of the Town's regulations in a specific way. This is expanded beyond building permits because the Town should not issue a CUP or any other approval on a lot created in violation. The section stricken below is redundant.~~

~~Any subdivision filed or recorded without the approvals required by this chapter, and the Act is void, for the purposes of development approval or the issuance of a building permit, as required by UCA §§ 10-9-811 et seq., as amended.~~

- ~~(B) Any owner, or the agent of the any owner, of any land located in a subdivision, as defined herein, who transfers or sells any land located within the a subdivision before such that subdivision has been approved and recorded consistent with the requirements of as required by this code and the Act state law is guilty of a separate violation of this chapter code and state law for each lot or parcel transferred or sold.~~
- ~~(C) The description by metes and bounds or other instrument used in the process of selling or transferring of any lot or parcel of land does not exempt the that transaction from being a violation of this chapter code and the laws of the state law, or from the penalties provided as provided by this chapter code and the or state laws of the state.~~
- (D) Parcel boundary adjustments, as defined by this code and state law are not subdivisions, nor can they be made within subdivisions. The procedure for parcel boundary adjustments is established by §152.200.
- (E) Lot line adjustments within a subdivision require a plat amendment. The procedure for plat amendments is established by §152.202.

**Delete §152.006 in its entirety and renumber accordingly**

**Delete §152.011 in its entirety. Renumber accordingly.** *The contents of this section will be moved to the “master” definitions chapter.*

**Replace §152.115 with the following. Renumber accordingly.**

**§152.115 HOW CAN I WORK WITH AN ADJOINING LANDOWNER TO ADJUST THE BOUNDARIES OF MY PARCEL OR LOT?** What you must do depends on your location.

- (A) Outside recorded subdivisions, property owners may agree to adjust boundaries as provided by UCA §10-9a-523. Parcel boundary adjustments outside recorded subdivisions are not reviewed by the Town. You should consult an attorney or a surveyor.
- (B) Within recorded subdivisions, you must amend the subdivision plat, as required by §10-9a-608 of the Utah Code. Plat amendment procedures are established in §152.116.

**§152.116 HOW CAN A SUBDIVISION PLAT BE AMENDED?** Two types of plat amendment are possible: those for which public hearings may be required and those for which



public hearings may not be needed. Both types of amendments require that a plat be prepared by a licensed surveyor. Both types of amendments are reviewed by the Planning Commission.

- (A) ***When is a public hearing not required?*** No public hearing is required for a proposed plat amendment that: (1) involves only adjusting the boundaries of adjoining lots or parcels that are in a single ownership; (2) involves only adjusting the boundaries of adjoining lots when the plat is signed by all affected lot owners; (3) does not propose to eliminate or change any public way, easement, or dedicated open space; and (4) will not result in a violation of this code. *A plat amendment could violate this code if, for example, it creates a lot that falls below the minimum lot size or has no legal access.*
- (B) ***What is the procedure for reviewing a proposed amended plat when no hearing is required?*** (1) The Administrator will send notice that a plat amendment has been proposed to all affected agencies, all owners within the subdivision, and all adjacent property owners who are not within the subdivision at least 10 days before the Planning Commission meeting at which the proposed plat amendment will be reviewed. This notice will give the date, time, and place of the Planning Commission meeting and either include or explain how to access a copy of the proposed plat and any accompanying materials. (2) The Planning Commission will review the proposed plat amendment and decide either to approve it or, due to a lack of required signatures, the filing of a protest, or questions raised about compliance with this code, to schedule a public hearing. (3) Upon approval, including approval with conditions imposed to ensure compliance, by the Planning Commission, the proposed plat amendment may be recorded.
- (C) ***When may a public hearing be required?*** A public hearing is required when a proposed plat amendment is not signed by all affected lot owners; if any lot owner within the subdivision files a written protest of the proposed amendment; or when, as provided by §152.116(B)(2), the Planning Commission determines that it could adversely affect a public way, easement, or dedicated open space, or that the proposed amendment could result in a violation of this code.
- (D) ***What is the procedure for reviewing a proposed amended plat when a hearing is required?*** (1) The Administrator will send notice that a plat amendment has been proposed to all affected agencies, to all lot owners within the subdivision, and to all adjacent property owners who are not within the subdivision at least 10 days before the Planning Commission meeting at which it will be heard. This notice will give the date, time, and place of the Planning Commission hearing and either include or explain how to access a copy of the proposed plat and any accompanying materials. (2) The Planning Commission will employ its standard hearing procedure, including taking formal statements, then deliberate. (3) If the Planning Commission finds that the proposed plat amendment has no adverse impact on adjoining properties or public infrastructure, including public ways, easements, and dedicated open spaces, and results in no violation of this code, the Commission shall approve it, imposing any conditions the Commission finds necessary to ensure compliance. If the Planning Commission finds that there will be adverse impacts or a violation of this

code, it shall deny the proposed plat amendment. (4) The approved plat amendment, revised as necessary to fulfill any conditions imposed, may be recorded.

(E) ***What must be shown on a proposed amended plat?*** It must (1) show the portion of the subdivision that is proposed to be amended, which could be the entire subdivision; (2) show both the original lot lines and any proposed changes in lot lines; (3) show all public ways, easements, and dedicated open spaces, and other information depicted on the affected portion of the recorded plat, specifically including all utility easements; (4) have a name that clearly distinguishes it from the recorded plat of the subdivision; (5) have a signature block for all owners involved; (6) have a space for a signature indicating Planning Commission approval and (7) bear a signed surveyor's certificate. The proposed amended plat must also be accompanied by the completed application form/s provided by the Town and the fee for a plat amendment established by the Town Council. *Note that the Council will need to amend its fee resolution to include a fee for plat amendments.*

## **Proposed Consolidation of Definitions for Boulder Town's Land Use Regulations**

Definitions of the same term used in Boulder's building, subdivision, and zoning regulations ought to be identical, but sometimes they aren't. Some definitions need to be brought in line with state law or made internally consistent. Some define terms that are not used in the regulations. For all these reasons, I propose adding a "master" definitions chapter.

As you will see **this draft is not complete**. Much work on the definitions remains. This will get us started.

### **AN ORDINANCE \_\_\_\_\_ CONSOLIDATING THE DEFINITIONS USED IN BOULDER TOWN'S LAND USE REGULATIONS**

***Please note that the italicized language included here is NOT part of the proposed ordinance. It is included for explanatory purposes and will not appear in the adopted version of the ordinance.***

WHEREAS: Definitions are basic to public understanding and the competent administration of any regulation;

WHEREAS: Boulder Town's current building regulations contain no definitions of the terms of art used therein;

WHEREAS: Boulder Town's current regulations have definitions in multiple locations, making them difficult to find efficiently;

WHEREAS: The definitions given in Boulder Town's current land use regulations are not always internally consistent or consistent with Utah law; and

WHEREAS: Consolidating and correcting the definitions used in the administration of the Town's land use regulations will eliminate redundancy and the potential for confusion;

**BE IT HEREBY ORDAINED THAT THE BOULDER TOWN CODE OF ORDINANCES IS AMENDED AS FOLLOWS:**

**Replace the word “contiguous” in §152.041(C)(3) with “adjacent.:**

**Delete §153.194 in its entirety.** *Since there is no official map – see the explanation with the definition below – this standard re the measurement of front setbacks is irrelevant.*

**Add a new Chapter 155, as follows:**

**Move the contents of §152.011 into the new Chapter 155 and revise as follows.**

**Move the contents of §153.011 into the new Chapter 155 and revise as follows.**

**§155.01 DEFINITIONS** For the purpose of this ~~chapter code~~, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***ABSOLUTE STANDARD.*** A standard adopted in §§ 15.400 et seq. or §§ 1513.415 et seq. with which a proposed home business or commercial development must comply in order to receive a CUP.

***ADJACENT.*** Meeting or touching at some point; ~~or directly~~ across a street, alley, or other public or private right-of-way or easement; or directly across a stream.

***AFFECTED ENTITY.*** A county, municipality, local district, independent special service district under UCA Title 17AD, Chapter 21, Special Service District Act, Independent Special Districts, local district under UCA Title 17B, Chapter 1, Local Districts, school district, interlocal cooperation entity established under UCA Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, property owner, property owners association, 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~~ by this code or state law.

*The definition above appeared in both the subdivision and zoning ordinances. State law has changed slightly, thus these revisions.*

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

***APPLICANT.*** The owner of the land on which a development is proposed or permitted, or the owner’s authorized ~~representative~~ agent.

**BILLBOARD.** A freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered or existing on the property where the sign is located. *“Billboard” was not defined in the zoning ordinance, where the term is used, but in the subdivision ordinance, which of course has nothing to do with signs. This is a good example of why we are laboring through these definitions.*

~~**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 UCA 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.~~

*“Charter School” is defined in both existing ordinances, but the term is used only in the zoning ordinance, and then only re the abandonment of charter schools. The rule for charter schools in Boulder Town is no different, however, than the rule for any other use. Unless someone can point out a good reason why not, I recommend dropping this.*

~~**CHIEF EXECUTIVE OFFICER.** The Mayor of Boulder Town, Utah. Can anyone think of a reason not to just say “Mayor?”~~

**COMMERCIAL.** The generic term this ~~chapter~~ code uses to refer to the conduct of business, including, but not limited to, retail sales, the provision of services, and industrial activities. By itself, this term tells one nothing about which commercial uses are or are not permitted. Please refer to the table of uses and standards established by §§ [153.115](#) et seq. Standards that apply to "commercial" uses apply to all of them, except when a specific use is specifically exempted. This term specifically encompasses more specific terms that were used ~~in this chapter~~ prior to the 2021 amendments, including automotive care, commercial sales and services, lodging, professional offices, recreation facilities, restaurants, and veterinary clinics.

**COMMISSION.** The Planning Commission of Boulder Town, Utah. *I have used the full name (Planning Commission) in all amendments. Do we need to keep this?*

**COMPATIBLE.** Compatible does not mean identical or even nearly the same. That two (2) things are compatible means that they are able to exist together without conflict, that they are reconcilable.

~~**CONTIGUOUS.** The touching or overlap of two or more use district boundaries or property lines. This term is barely used. I propose replacing it with the more commonly used “adjacent.~~

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

*Same as with the Planning Commission, I recommend always using the full name.*

**FACADE.** Any portion of a building that faces ~~or~~ and is visible from a public way, ~~or from a public off-street parking lot area, or a public open space~~; includes walls and ~~all~~ apertures, also any visible element of the roof.

**HOME BUSINESS.** An industrial or commercial activity that is conducted in a dwelling or in an accessory structure that is appurtenant to a dwelling, and that complies with the standards of §§[153.400](#) et seq.

**INDUSTRIAL.** The generic term this ~~chapter~~ code uses to refer to the processing, manufacturing, assembly, and/or distribution of goods or products and/or the collection and processing of wastes and/or the production of energy. By itself, this term tells one nothing about which industrial uses are or are not permitted. Please refer to the table of uses and standards established by §§ [153.115](#) et seq. Standards that apply to "industrial" uses apply to all of them, except when a specific use is specifically exempted. For the purposes of this ~~chapter~~ code, industrial uses are regulated as commercial uses. The raising of crops or livestock is not industrial ~~for the purposes of this chapter~~.

**LEGISLATIVE BODY.** ~~The duly elected Town Council of Boulder Town, Utah. This term is used only twice and still was not defined in quite the same way in the subdivision and zoning ordinances, which also refer to a "legislative authority". Is there any reason not to just say "Town Council?"~~

**LODGING.** A building or group of buildings containing guest rooms, used or intended wholly or in part for the accommodation of transients visitors. Lodging places may also provide additional services, such as restaurants, meeting rooms, entertainment, and recreational facilities. Bed and breakfast inns and short-term rentals are separately defined and regulated.

**NON-CONFORMING 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.

**OFFICIAL MAP.** ~~A map adopted by the Council and recorded in the 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 town's General Plan.~~

*"Official Map" was defined in slightly different ways in the subdivision and zoning ordinances. No problem to fix, but I do not believe the Town has ever adopted such a document, nor do I see that it needs one at this time.*

***OPERATING HOURS.*** Operating hours include all hours a business is in operation, not just those when it is open to the public.

***RELATIVE STANDARD.*** A standard adopted in §§ 15.400 et seq. or 153.415 et seq. on which the performance of a proposed home business or commercial development receives a point score as part of the Planning Commission's review of the application for a CUP. These standards are used to encourage or discourage certain development practices that are not absolute requirements, but part of the trade-offs that must be considered. A proposed development must receive a score of zero or better on the relative standards in order to obtain a CUP.