

CORRECTED Proposed Amendments Regulating Land Divisions

This draft contains no explanations beyond this introduction. Please refer to the February 3 and February 4, 2022, memos to the Planning Commission for detailed explanations of many of the proposed changes. Additions to the current code are underlined. Deletions from the current code are struck through.

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WHEREAS: Boulder Town's current requirements for parcel boundary adjustments have been partially superseded by changes in state law and also require substantial clarification;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

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.~~

~~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 recorded subdivisions. The procedure for parcel boundary adjustments is established by §152.200.~~
- ~~(E) Lot line adjustments within a recorded subdivision require a plat amendment. The procedure for plat amendments is established by §152.202.~~

Delete §152.006 in its entirety. Renumber accordingly.

Delete §152.011 in its entirety. Renumber accordingly.

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 recorded 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.
- (B) ***What is the procedure for reviewing a proposed amended plat when no hearing is required?*** (1) The Zoning 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 Zoning 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.