

**March 3 Edition of Draft Minor Subdivision Procedure**

**AN ORDINANCE \_\_\_\_\_ CREATING A MINOR SUBDIVISION  
PROCEDURE AND STANDARDS**

**Whereas:** Boulder Town can implement its general plan and protect the public interest as land development occurs only with effective regulation of land divisions; and

**Whereas:** Boulder Town’s current subdivision ordinance does not provide a procedure for minor subdivisions, but levies the same requirements on four new lots as it would on 40:

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

**Revise §152.132 as follows:**

**§152.132 NOTICE REQUIRED BY THE ACT FOR PUBLIC HEARINGS AND PUBLIC MEETINGS TO CONSIDER A MINOR OR PRELIMINARY SUBDIVISION APPLICATION AND NOTICE OF FINAL ACTION.**

**What public notice must be given before a public hearings on an application to permit a minor subdivision or for the review of a preliminary plat?** The Planning Commission Secretary, ~~for public hearings before the Commission,~~ shall provide notice of the a public hearing to consider a minor or preliminary subdivision application as follows:

- (1) ~~At least ten (10) calendar days before a public hearing,~~ notice of the date, time and place of ~~the public that~~ hearing, ~~at least ten calendar days before the public hearing, which notice~~ shall be: (1) mailed to the applicant and each “affected entity,” as defined ~~herein in this code;~~ (2) posted in at least three public locations within the Town and/or posted on the official website of the Town; (3) published in a newspaper of general circulation within the Town; and (4) ~~sent by United States~~ mailed First Class to all owners of record of real property within 300 feet of the subject outer boundaries of the property proposed for minor or preliminary subdivision application approval.
- (2) The public hearing notice shall also explain how to obtain or access (a) a copy of the application for a minor subdivision or approval of a preliminary plat and (b) a copy of the Zoning Administrator’s report on the application.

~~Notify each applicant of the date, time and place of each public hearing, at least ten calendar days before the public hearing; and~~

~~Provide to each applicant a copy of each staff report regarding the application at least three business days before the public hearing.~~

**Subsections (B) and (C) of §152.132 remain as they are.**

**Add a new division to Chapter 152 entitled, “MINOR SUBDIVISIONS,” as follows.**

## MINOR SUBDIVISIONS

**§152.201 CAN I CREATE JUST A FEW HOMESITES WITHOUT THE PROCESS REQUIRED FOR LARGER SUBDIVISIONS?** Yes, if your proposed development complies with the standards established here.

### **§152.202 WHAT ARE THE STANDARDS FOR MINOR SUBDIVISIONS**

(A) **What land uses are permitted in minor subdivisions?** The only uses permitted in a minor subdivision are agriculture and residential, which includes: (1) home businesses permitted by §153.400 and other applicable requirements of this code, and (2) accessory dwelling units permitted by this code and as required by state law. *I added agriculture, which has the right to continue, regardless. I do not recommend relying on the existing zoning at least until we resolve the issue that the GMU and the LDR are now essentially identical.*

(B) **How many lots are permitted in a minor subdivision?** Four.

(C) **What type of street access is permitted to lots in a minor subdivision?** A minor residential subdivision may not create a new public street. All lots must be directly accessible from an existing public street or served by private access easements that are clearly delineated on the proposed minor subdivision plat and in the accompanying materials.

~~**Will “flag lots” be permitted to facilitate direct access from an existing street in minor subdivisions?** Possibly. The Planning Commission may waive the minimum lot width requirements of §153.119 where it finds that a “flag lot” will provide safe, adequate access while eliminating the need for a private access easement serving the lot. See instead new Item (J), below.~~

(D) **What type of water supply is permitted for lots in a minor subdivision?** There are two ways to comply with this standard.

- (1) All lots in minor subdivision must be connected to a water supply regulated by the state, OR
- (2) the recorded plat must bear a disclosure stating in bold lettering that no central water supply is proposed and the provision of culinary water is the responsibility of the lot owner.

*Disclosures like this are permitted by some neighboring and nearby states (WY, MT). I have never seen them stop lot owners from asking local government to bail them out if wells don't work.*

- (3) If connection to a regulated water supply is proposed, the application for a minor subdivision must include a written statement from the proposed

supplier indicating that it has both adequate capacity and physical capability to serve the proposed lots. The proposed minor subdivision plat must clearly show all easements needed for water connections.

- (E) ***What about wastewater treatment in minor subdivisions?*** The proposed minor subdivision plat and accompanying materials must clearly show that there is a suitable location for an on-site wastewater treatment system. Installation of on-site wastewater systems is separately regulated by state law. There is an unpublished soil survey that shows suitability for on-site systems. It would be the basis for making this determination.
- (F) ***Must minor subdivisions avoid natural hazards and protect natural assets?*** Yes. The proposed minor subdivision plat must clearly show a building envelope on each proposed lot that does not include: (1) any flood hazard area mapped by the Federal Emergency Management Agency; (2) any wetlands subject to Federal jurisdiction; (3) any stream or wetlands buffer required by §152.201(H); (4) any slope of 30% or more; (5) more than a small area of slopes between 15 and 30%; or (6) any known archeological or paleontological site. (7) The proposed building envelopes shall be designed to minimize grading, excavation, or other surface disturbance, and in no case shall more than 10% of a lot be graded or otherwise disturbed. (8) Access drives and utilities may cross streams, wetlands, or slopes to reach the building envelope, but only where the disturbance for that crossing is minimized and held within the 10% overall disturbance limit. (9) Existing trees shall be retained, except where the Planning Commission finds that removal of a minimal number of trees within the building envelope is necessary to permit reasonable use of the proposed lot.
- (G) ***Must minor subdivisions take measures to reduce wildfire hazards?*** Yes. The proposed minor subdivision plat and accompanying materials shall show how applicable provisions of the current *Utah Urban Wildland Interface Code* will be implemented. This isn't a change. I just realized that it should be an independent standard.
- (H) ***What are the requirements for watercourse or wetland buffers?*** Minor subdivisions must provide a vegetated buffer along all watercourses, permanent and intermittent, including irrigation works and wetlands. Where feasible, the buffer along a watercourse shall include the entire riparian or wetland area and an additional upland buffer of at least 25 feet. Where the Planning Commission finds that physical limitations of the property make it infeasible to include the entire riparian or wetland area, the minimum buffer along a watercourse or around a wetland, shall be 50 feet. The minimum buffer along an irrigation ditch shall be determined in consultation with the owner of that ditch. Irrigation ditches may, with permission of the owner, be moved underground or relocated.

- (I) **Must minor subdivisions protect agricultural resources?** Yes. (1) There shall be no adverse impacts on the irrigation of other lands. All irrigation ditches or other irrigation structures, and safe, adequate access to them, shall be maintained or, with the written permission of the owner/s, they may be rerouted or relocated at the applicant's expense. (2) Wherever the site permits, building envelopes shall not include irrigated lands.
- (J) **Does the Planning Commission review the layout of lots and building envelopes in minor subdivisions for compatibility with existing uses?** Yes. The Planning Commission must find that the layout of the proposed lots and building envelopes: (1) provides ample buffers from incompatible uses, existing or potential and may expand the required setbacks to meet this standard; (2) and is generally compatible with the pattern of development on neighboring parcels. (3) The Planning Commission may approve the platting of multiple building envelopes on a lot, but only one of those building envelopes may be used. *This is added both because it's a good idea to ask about compatibility and because it gives the Planning Commission the ability to consider lot width (and generally shape) that will be removed from the zoning.*

#### **§152.203 WHAT IS THE PROCEDURE FOR REVIEWING MINOR SUBDIVISIONS?**

- (A) **Must I submit a sketch plan before filing an application to create a minor subdivision?** Yes. A sketch plan for a proposed minor subdivision may be filed with the Administrator for consideration at the next regular Planning Commission meeting for which adequate notice of the sketch plan review can be given.
- (B) **What must be shown in a sketch plan for a minor subdivision?** The purpose of sketch plan review is to allow the Planning Commission to be made aware that an application may be filed and to discuss the requirements of this code and any immediately apparent issues with the applicant. The public will be allowed to ask questions, but no statements will be taken. **The applicant should not make a significant investment in preparing plans before sketch plan review.**
- (C) **When can I file an application for minor subdivision review?** An application to create a minor subdivision may be filed with the Administrator at any time within two years after the sketch plan review.
- (D) **What must be included in the application for minor subdivision review?** The application must include the form/s required by the Town, the fee required by the Town, a proposed minor subdivision plat, and accompanying materials that are needed to explain and support what is shown on that plat. Everything listed below must be submitted before the Administrator can determine that application is complete. (1) Preliminary plat review is not required for minor subdivisions, but applicants must be aware that the Planning Commission may require revisions that must be brought to future meetings before making its decision. (2) Proposed minor subdivisions plats must include: (a) everything required on a subdivision

plat by UCA §§10-9a-603, et seq; (b) where they are proposed, private access easements; (c) the building envelopes required by §152.201(G); (d) watercourses, irrigation works, and the buffers required by §152.201(G)(3); (e) a surveyor's certificate with the contents required by UCA §10-9a-603(6)(b); (f) a signature block on which the Planning Commission may indicate its approval, if the proposed minor subdivision is approved; (g) a signature block for the owners, including any person or institution that holds a lien, mortgage, or other security on the land being subdivided. (3) The accompanying materials for a proposed minor subdivision plat must include: (a) the most recent aerial imagery of the parcel proposed for subdivision and its immediate environs; (b) one or more overlays over that aerial imagery showing the proposed lots, easements (if any) and building envelopes, flood hazard areas, jurisdictional wetlands, slopes by percent category (0-3%, 3-8%, 8-15%, 15-30%, 30% plus), jurisdictional wetlands, known archeological or paleontological sites; and trees proposed to be removed (c) a draft of any proposed private access easement/s; (c) evidence that the applicant has notified the owner/s or beneficiaries of any easement that is within or adjacent to the proposed minor subdivision, specifically including any easement for irrigation works or utilities, that a subdivision is proposed; (d) evidence that all taxes due on the land proposed for subdivision have been paid.

- (E) ***Is a public hearing required for a minor subdivision?*** Yes. Upon receipt of a complete application to create a minor subdivision, the Administrator shall schedule a public hearing at the next regular Planning Commission for which at least 10 days advance notice of that hearing can be provided as required by §152.132(A).
- (F) ***What happens at that public hearing?*** The Planning Commission will follow its adopted hearing procedure. At the end of the hearing, the Planning Commission may (1) table action and request additional information to be provided by a date certain; (2) adopt findings of fact and conclusions of law approving the proposed minor subdivision, imposing any conditions it finds necessary to ensure compliance with this code; or (3) adopt findings of fact and conclusions of law denying the proposed minor subdivision. The Administrator will notify the applicant and interested parties who have requested such a notice in writing within 10 days after a decision is made.
- (G) ***What happens after approval of a minor subdivision?*** The applicant must revise the minor subdivision plat, if necessary, before submitting it to the Administrator who will schedule it for final review and signature by the Planning Commission. The signed minor subdivision plat must then be recorded with the Garfield County Recorder.
- (H) ***When may the lots created for sale be advertised or transferred?*** You may not advertise for sale, sell, or otherwise transfer any of the lots until the minor

subdivision plat is recorded. Note also that no site work is permitted before the minor subdivision plat is recorded.

- (1) *What rights do I have if my application to create a minor subdivision is denied or if I find one or more of the conditions imposed to be unfair? You may, within 30 days, appeal the Planning Commission decision to the Town Council. Appeal procedures are found at §§153.355, et seq. of this code.*

**Revise the table found at §153.119 to include a footnote stating:**

The Planning Commission may waive the minimum lot width required here as provided by §152.201(D).

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