

## March 24 Proposed Amendments Regulating Land Divisions

This is a new draft, similar but not identical to the previous drafts you have received. Trying to show the changes draft to draft would be confusing, so this shows the changes from the code as it stands.

### AN ORDINANCE \_\_\_\_\_ AMENDING CHAPTER 152 OF THE BOULDER TOWN CODE OF ORDINANCES

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WHEREAS: Boulder Town's current requirements for parcel boundary adjustments have been partially superseded by changes in state law and also require substantial clarification;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 currently fails to provide a process for the amendment of recorded subdivision plats, as required by state law; and

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

**There is no need to change §§152.001-004 at this time. Revise §152.005 as follows:**

#### **§152.005 IS APPROVAL REQUIRED FOR ALL SUBDIVISIONS?**

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

- (A) No permit shall be issued for uses, buildings or any other improvements on any lot or parcel that was created in violation of ~~this chapter~~ this code.
- (B) The transfer or sale of any land located within a subdivision before the plat of that subdivision has been approved and recorded as required by this code is a violation of this code.
- (C) Describing land that is offered for transfer or sale within a subdivision, as that term is defined by this code, by metes and bounds or in any other way, except by showing it on an approved and recorded plat is a violation of this code.

**Replace §152.006 in its entirety, as follows.**

#### **§152.006 How are basic terms used here defined?**

- (A) In the administration of this code, all land, regardless of how it may be described elsewhere, is regulated as a 'lot,' a 'parcel,' or a 'right-of-way.'

A **LOT** is any area of land that is separately demarked on a recorded subdivision plat, whether called a lot or not.

A **PARCEL** is any other area of land. In the administration of this code, there are no lots outside of recorded subdivisions, there are no parcels within recorded subdivisions.

**RIGHTS-OF-WAY** are separately owned, generally linear areas of land that provide circulation, irrigation, or utility service to adjoining lots or parcels.

(B) To distinguish them, it is understood that **EASEMENTS** may be recorded on lots or parcels, or within rights-of-way, but that the recording of an easement cannot constitute a lot line adjustment, parcel boundary adjustment, or subdivision.

(C) A **PARCEL BOUNDARY ADJUSTMENT** occurs when the owners agree to adjust the boundary between adjoining parcels. A parcel boundary adjustment cannot create a new parcel or lot. It can be used to change the boundary between a right-of-way and a parcel. For the regulation of parcel boundary adjustments, please see §152.115.

(D) A **LOT LINE ADJUSTMENT** occurs when the owners of adjoining lots within a recorded subdivision agree to change lot lines or when the owner of a lot line within a subdivision agrees with the owner of an adjoining parcel to change boundaries between the lot and the parcel. A lot line adjustment cannot create a new parcel or lot. It can be used to change the boundary between a right-of-way and adjoining lots. For the regulation of lot line adjustments, please see §152.116.

(E) A **SUBDIVISION** occurs when any land is divided, re-subdivided, or proposed to be divided into two or more lots or other divisions of land for the purpose, whether immediate or future, for offer, sale, lease, or development either upon the installment plan or upon any and all other plans, terms, and conditions. Subdivision includes the division of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and except as provided by §152.006(F), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(F) **SUBDIVISION** does not include a bona fide division of agricultural land for the purpose of joining one of the resulting separate parcels to a

contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates this code or a parcel boundary adjustment as defined by §152.006(C) of this code. **This state definition is not CLEAR**

**§152.007 and 008 will be left as is at this time.**

**§152.009 was always redundant of §152.005 and is now deleted in its entirety. Renumber accordingly.**

**§152.010 will be left as is at this time.**

**§152.011 is replaced by the revised §152.006. Delete it in its entirety and renumber accordingly.**

**Everything between §152.011 and §152.115 remains as is.**

**Replace §152.115 and 116 with the following. Renumber accordingly.**

**§152.115 HOW CAN I WORK WITH AN ADJOINING OWNER TO ADJUST THE BOUNDARIES OF OUR PARCELS?** Outside recorded subdivisions, adjoining property owners may agree to adjust boundaries as provided by UCA §10-9a-523. Parcel boundary adjustments are NOT reviewed by the Town. You are advised to consult an attorney or a surveyor.

**§152.116 HOW CAN I WORK WITH AN ADJOINING OWNER OR OWNERS TO ADJUST THE BOUNDARIES OF OUR SUBDIVISION LOTS BY AMENDING THE RECORDED SUBDIVISION PLAT?**

**(A) *Is a public hearing required to amend a recorded subdivision plat?*** Yes.

The applicant must file the proposed amended plat, any accompanying materials required to demonstrate compliance with this code, a mailing list of all affected entities and adjoining landowners, and the required fee with the Zoning Administrator at least 15 days before the regular Planning Commission at which the hearing is requested.

**(B) *What is the procedure for reviewing a proposed amended plat when a hearing is required?***

(1) The Clerk of the Planning Commission will send notice that a plat amendment has been proposed to all affected entities, all lot 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 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 accompanying materials.

- (2) The Planning Commission will employ its standard hearing procedure, taking factual questions before taking formal statements, taking formal statements, and then deliberating.
- (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 Planning Commission shall approve it, imposing any conditions it finds necessary to ensure compliance. If no conditions are imposed, the proposed plat amendment may be signed by the Chair or Presiding Chair at this time.
- (4) If the Planning Commission finds that there will be adverse impacts or a violation of this code, it shall deny the proposed plat amendment.
- (5) If the approved amended plat must be revised to fulfill conditions imposed by the Planning Commission, the revisions may be submitted to the Zoning Administrator at any time within 180 days after its approval. The Zoning Administrator will obtain the signature of the Chair or Acting Chair of the Planning Commission. The approved plat amendment may then be recorded as provided by state law,
- (6) An approved plat amendment must be recorded as provided by state law, within 365 days of its approval. No permit required by the Town may be issued within the area covered by a plat amendment until that amendment has been recorded.

(C) ***What must be shown on a proposed amended plat?*** It must:

- (1) show the portion of the subdivision that is proposed to be amended and how that portion fits into the entire subdivision;
- (2) show both the original lot lines and the proposed changes in those lot lines;
- (3) show all public ways, easements (public and private), and dedicated open spaces, specifically including all utility easements; and all other information shown on the plat; *Plats often show building envelopes and other specific types of restrictions. It is impossible to enumerate the possibilities, but they must all be carried over onto the amended plat.*
- (4) show all wells, watercourses, and irrigation works;
- (5) have a name that clearly distinguishes it from the originally recorded plat of the subdivision;
- (6) bear the signatures of all landowners whose consent is required;
- (7) have a space for a signature indicating Planning Commission approval; and

(8) bear a signed surveyor's certificate as required by state law.

**Delete §152.117, which has always been redundant of §152.010, in its entirety.**

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