# Discussion White Paper

# New Boulder Land Use Ordinance Package

*This is John Veranth’s attempt to provide an organized structure for a complete rewrite of the Boulder Zoning and Subdivision ordinances. I believe everyone is now aware of the difficulty of solving problems with incremental changes. Starting with the “big picture” then working on specifics is needed. The following are the major topics needing high-level discussion and possible General Plan amendment before finalizing ordinance language.*

*STREETS: The design of driveways and private streets is a town concern. There is a need to balance development cost, long-term public safety access, rights of adjacent landowners, and the rural appearance of the town.*

*SUBDIVISION DESIGN: Under SB174 requirements need to be codified, not discretionary. Ordinances need to cite specific standards and criteria. We do not have the expertise to write engineering specifications, and most towns have adopted “suburban” standards that should not be copied by Boulder.*

*ZONING: Reconsider the 2000-vintage Boulder zoning to address the ongoing loss of agriculture and open space to large lot subdivisions and the lack of housing accessible to local workers.*

*ATTAINABLE HOUSING: This includes developing specific ordinance language implementing the community workshop priorities: encouraging local worker housing, removing barriers to creating attainable housing, creating affordable lots.*

*SUSTAINABLE AGRICULTURE: Incentives for conservation easements and keeping irrigated fields in production. Making sure that ordinances do not block innovations such as land trusts.*

# Outline for New Boulder Land Use Ordinance Package

*Organization Question: It seems like the building, subdivision, and zoning are in the reverse of the logical order: zoning sets what land uses are allowed, subdivisions establish land boundaries and transportation routes, then building takes place. Both sequences are used in the examples from other jurisdictions. Should we reorganize?*

# Title XV Land Use

# PURPOSE & AUTHORITY

*Many example ordinances begin with general statements regarding purpose and needed and the authority to establish land use regulation.*

# ## DEFINITIONS

*I recommend consolidating all land use definitions in one place. Also, delete definitions for terms not used in Boulder ordinance. Suggest exactly matching (or adopting by reference) all land use definitions in Utah Municipal Code 10-9a to avoid confusion of which applies.*

Section 153.011 consolidated with other land use definitions

Section 152.006 - subdivision definitions

Cross check between business regulation provisions in Chapter 153 and Business Regulation definitions in Chapter 110

# [150.](https://codelibrary.amlegal.com/codes/boulderut/latest/boulder_ut/0-0-0-936#JD_Chapter150) GENERAL PLAN

## 150.01 Adoption

Insert date of current revision. This section is what makes a specific general plan the binding document.

## Move 153.070 through 153.103 here

Procedures for amending the general plan do not belong in zoning.

## 150.xx (placeholder)

Any other codified provisions regarding General Plan go here.

# Noticing

*Should all noticing, public comment, and hearing requirements regarding land use be consolidated? Noticing is treated as a separate section in Utah Municipal Code 10-9a (LUDMA).*

# [153.](https://codelibrary.amlegal.com/codes/boulderut/latest/boulder_ut/0-0-0-1560#JD_Chapter153) ZONING

*POLICY DISCUSSION: Zoning remains a discretionary legislative act but SB174 makes subdivision a purely administrative act. Any decisions where the town wants to have discretion on approval will best be handled as a zoning change. This is would be a major policy decision. Again - watch how other jurisdictions handle the problem.*

## Authority for Zoning

Sections 153.001 through 153.010

Section 153.011 consolidated with other land use definitions

## Land Use Authorities

Sections 153.040 through 153.047 establish legal basis for the role and authority of each administrative position and each town body.

### *Zoning Administrator*

*Zoning administrator duties and responsibilities appear in multiple places and need to be reorganized, cross checked, and possibly consolidated.*

## Interpretation of Requirements

Sections 153.025 through 153.027

Sections 153.048 through 153.056

## Zoning Districts

Sections 153.115 through 153.017 go here. 153.119 table of development standards and 153.120 off street parking may fit better elsewhere.

*POLICY DISCUSSION: Need to reconsider the current zones and their definitions. Do we need a true “Agriculture and Open Space” zone? Should clustering involve rezoning an area for higher density? Should GMU rules be different for open fields versus pinyon-juniper forest? Current rules could allow undesired changes such as a high-end, suburban-style, gated community. How do we incentivize landowners to preserve community character?*

Relocate 153.135 through 153.174 to a “regulations section”.

## Amendments to General Plan and Zoning Districts

Reorganization of Sections 153.070 through 153.077 is recommended. Parts belong in Chapter 150 and parts belong in zoning.

## Development Standards

Section 153.119 table of development standards and 153.120 off street parking

Section 153.185 through 153.205 (but some of these actually belong with building permits.)

Relocate 13.215 through 153.221 to Chapter 151 Building Permits. This is in the August “Housekeeping” ordinance changes.

## Sensitive Land Overlay

Section 153.235 through 153.241

*POLICY DISCUSSION: Are the current rules encouraging building on agricultural land and not allowing construction on dry hillsides? The existing rules are more restrictive than typical and may not be needed to protect community character. Some sensitive land provisions could be better worded.*

# Development Applications and Procedures

Relocate Sections 153.090 through 153.103 to a separate chapter. Application procedures do not belong in the middle of zoning.

# Land Use (Business) Regulations

*The existing ordinances mix land use issues (what is allowed in each zone) and business regulation provisions (detailed requirements for operating an RSTR). POLICY DISCUSSION: Should business regulation be a separate section?*

Consolidate 153.135 through 153.174 here. also *Chapters 110*

## Permitted Uses

## Conditional Use Permits

### Commercial Establishments’

### Home Businesses

### Residential Short-term Rentals

### RV Parks and Campgrounds

### Temporary Uses

### (NEW) Employee housing?

Move Sections 153.400 through 153.439 Home Businesses, Commercial Development Standards and RV Parks to Business Regulation section.

## Non-Conforming Uses

Sections 153.225 through 153. 311

### Board of Adjustment

### Variances

## Enforcement

## Review of Constitutional Taking Issues

## Appeal Authorities and Procedures

Move Sections 153.380 through 153.385 to a consolidated noticing section.’

Move Sections 153.400 through 153.439 to Business Regulation section.

## Development Standards 153.185- 153.205

*Need to review each provision and figure out where it should go.*

# [152.](https://codelibrary.amlegal.com/codes/boulderut/latest/boulder_ut/0-0-0-1017#JD_Chapter152) SUBDIVISIONS

SB 174 required changes: February 1, 2024 deadline for cities over 5000 population, smaller towns have until December 1, 2024 deadline.

## General Provisions

*Put current 152.001 though 152.009 here. Edit as required*

*Appeals, enforcement, penalty.*

*Noticing - Move and consolidate?*

*Other “general provisions”.*

## Subdivision Application Procedures

*Complete new section based on SB174 requirements replacing 152.040 through 152.069. I continue to recommend looking at how other jurisdictions handle mandated procedures.*

### Administrative Land Use Authority

Per state law must designate as “administrative land use authority” who may not be the Town Council that is is responsible for review and approval of subdivision applications. *POLICY DISCUSSION:* Should the administrative land use authority include Planning involvement (which is allowed under SB 174) or just be the ZA?]

### Informal Discussions

Remove all mandatory conceptual plan provisions 152.025 through .029. Provide for voluntary informal discussion per SB174.

### Completeness

Need very clear Boulder-specific criteria for ZA to determine subdivision application completeness as this starts the clock on the approval process.

### Mandatory Procedures

Use ULCT Model Ordinance Language.

Only 15 days allowed to review a preliminary subdivision application, only 20 days to review a final subdivision application. Only one public hearing allowed. No more than 4 review cycles allowed.

### Review Cycles

Only one public hearing allowed. No more than 4 review cycles allowed. *POLICY DISCUSSION:* Determine how many review cycles for preliminary and final approval stages. Get guidance on relationship of final plat approval to site work.

### Appeals

For disputes relating to public improvements and engineering standards there will be appeal to a three-person panel whose decision is final.

## Subdivision Design Standards

*POLICY DISCUSSIONS: Key problem will be how to handle site-specific issues - generic “as approved by the Town” language will not work for processing subdivision applications under the new state rules. A possible approach will be require adopt a list of recognized codes, guidance documents or similar technical performance standards for each topic and then require a qualified professional to certify as part of the application package that the proposal meets that standard.*

*“I certify under penalty of perjury that I have the necessary training and experience to \_\_\_\_\_ describe the task \_\_\_\_ and I have determined that to the best of my knowledge the \_\_\_\_ describe the documents \_\_\_ meet good professional practice and the specific criteria cited in the Boulder Town ordinances.”*

### Plat Requirements

Use the Utah land surveyor’s guidance document plus Boulder-specific items.

### Legal Access and Easements

*Address access to new lot, existing encroachments and easements, provisions to avoid creating landlocked parcels.*

### Lot Layout -

*Move density provisions to zoning. POLICY DISCUSSION: How to protect viewsheds, historic access, agriculture while giving owners incentives to follow the spirit of the general plan.*

*POLICY DISCUSSION: Although “fear of a big development” is frequently mentioned, there is nothing in the current ordinances that would prohibit (or even discourage) creating an exclusive, high-end gated community of multi-million dollar homes around a golf course. Fortunately remoteness and distance from a commercial airport is protecting Boulder for now. Under SB 174 if the plans meet the engineering standards then it will have to be approved.*

### Driveways and Streets

### Private Streets

*POLICY DISCUSSION: What does “all-weather road” mean and what do we need for public safety. How do street standards affect the appearance and rural character of the town? Need to adopt an engineering design standard that is appropriate for a rural setting.*

*POLICY DISCUSSION: Recommend eliminating distinction between driveways serving four or fewer lots and private streets and make both meet a minimum public safety and maintenance standard. Also, need to define the minimum requirements for a maintenance agreement: agreement runs with the land, designated contact person, rules for owner voting, commitment to continue to meet minimum design standards, assessment for routine and emergency repairs, funding arrangements.*

*Private driveway - limit to access to a single lot? Need to acknowledge historic undocumented driveways but not allow relying on unrecorded access when creating a new subdivision.*

*Consolidate “Private streets intersecting a public street” Section 91.25 through 91.28 here.*

*Selecting an appropriate design standard for public safety - Forest Service gravel road (cite sections)?*

### Public Streets

*Provisions for streets to be dedicated to the town.*

*New streets is not a TC priority. Could keep current “suburban” standards as placeholder.*

*POLICY DISCUSSION: How do street standards affect the appearance and rural character of the town? Selecting an appropriate design standard.*

### Fire Protection

International Fire Code, NFPA 1142, Urban Wildland Interface Code, Boulder hydrant requirements.

### Culinary Water

### Sanitation

Move 50.01 here.

### Electricity, other easements

### Protection of existing access and infrastructure

### Sensitive Lands and Geological Hazards

*POLICY DISCUSSION: The existing provisions should be reviewed in the context of preserving agriculture and creating attainable housing.*

## Provisions for Single New Lots

*POLICY DISCUSSION: Recommend we consider a simplified set of rules for single new lot projects that have access to a public right of way and where the buyer assumes responsibility for site development. Boulder has many subdivisions of this type and the outcome would be the same as buying an existing undeveloped parcel or historic lot.*

## Provisions for Performance-Based Subdivision Design

*This is a placeholder. Under SB174 everything needs to be allowed or prohibited. It may still be possible to have some type of PUD overlay or development agreement. Again, wait to see how larger municipalities address incentives.*

*Alternatively, it may be possible to use owner-requested rezoning as a tool for giving incentives.*

## Provisions for Clustering and Land Preservation

### Bonus density for Inclusion of Attainable Housing

### Bonus density for Preservation of Open Space and Agriculture

### Requirements for Establishing Permanent Land Protection

## Existing “Cluster Subdivision”

Repeal and replace with better? 152.145 through .152

## Subdivision Construction

Replace 152.095 through .099 with language regarding a development agreement providing items to be completed and a timetable. Also phased development and bonding.

Section on 3rd party inspection of work (Building official, fire authority, civil engineer, Health Department etc).

## Changes to Existing Plats

### Lot Adjustments

152.115 through .116

### Vacating existing streets

# [151.](https://codelibrary.amlegal.com/codes/boulderut/latest/boulder_ut/0-0-0-942#JD_Chapter151) BUILDING REGULATIONS; CONSTRUCTION

*Relocate building regulation provisions from places they do not belong.*

## Building Permits

Sections153.215-153.221

## Other Regulations

*Looking at samples of other jurisdictions the following topics can be either in zoning or in building regulations.*

### Sign Ordinance

# Placeholders for Future Discussion

There is already an overwhelming amount of work for planning to accomplish in the next 15 months. The following topics are included as placeholder headings as a reminder to address in the future.

## Historic Preservation

### Cattle Trails

## Lower Boulder Road

### Lack of Town Right of Way

### Single-point access and egress in case of wildfire

## Advisory Committees

### Parks, Trees, Active Transportation

### General Plan provisions for recreational amenities.

### General plan prohibition of undesired infrastructure.

## Zoning Administrator

The ZA is mentioned in numerous sections and consolidation would improve clarity. 152.043, .065, 066, 096, 099, 116, 999. 153.026, 027, 044, 096, 171, 172, 216, 219, 259, 265, 266, 235, 328, 356.

*POLICY DISCUSSION: There is an inherent conflict between ZA as the “friendly face of the town” when working with applicants and the ZA as an enforcement officer, which overlaps a TC responsibility. Also, choice between a local presence versus having a trained and experienced professional. TC needs to make the call on ZA role but PC can recommend clarifying ordinance language.*

## Business Regulation

*Currently business regulation appears in Chapters 110 (Business Regulations) and 153 (Zoning). POLICY DISCUSSION: How to reconcile preserving community character with economic realities for working-age adults.*

### *Overregulation.*

*Should SouthCentral or Garkane need a CUP to work on their R/W?*

## Water

Water is a limitation on development. However Boulder Town has limited jurisdiction over water. Any hydrology study or plan needs to involve the water rights holders, Boulder Farmstead and Boulder Irrigation Company, and the Forest Service as land manager of most of the local watershed.