

# Ordinance 2023-1: An Ordinance to Improve Consistency in the Subdivision and Zoning Chapters

**Whereas** Boulder Town desires to implement its General Plan;

**Whereas** Boulder Town desires to keep its land use ordinances consistent with the ever-changing requirements of Utah law; and

**Whereas** Boulder Town desires to simplify compliance with and the administration of its Code of Ordinances by removing internal inconsistencies and correcting errors;

**NOW BE IT ORDAINED BY THE TOWN COUNCIL OF BOULDER TOWN THAT THE BOULDER TOWN CODE OF ORDINANCES BE AMENDED AS FOLLOWS:**

## Amendments to Chapter 152

**Correct the definition of “lot line adjustment” and add definitions to §152.006, in alphabetical order, as follows:**

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 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](#).

A **PRIVATE DRIVEWAY** is a roadway, recorded as an easement appurtenant to the land serviced properties. The private driveway is maintained by the landowners pursuant to a maintenance agreement. The maintenance agreement shall be approved and enforced by the Town.

A private driveway may be created only by the recording of an easement that is shown on the final subdivision plat. Private driveways are included within the area of any lot they cross for the determination of lot size.

A **PRIVATE STREET** is a transportation and utility easement that provides access to multiple lots and/or parcels. It meets Town standards for streets but is maintained by the landowners it serves pursuant to a maintenance agreement that runs with the land and is approved and enforceable by the Town. The area of private streets may be included within the area of any lot they serve for the determination of lot size.

**Amend §152.007 and add a new (C), as shown below:**

**§ 152.007 FEES, CHARGES, AND FORMS.**

- (A) The Town Council shall, by resolution, establish all fees and charges payable for the review of subdivision applications, including planning and engineering review, and for the inspection of subdivision improvements.
- (B) Such fees and charges may be amended from time to time by resolution of the Town Council to cover the actual costs of subdivision review.
- (C) All administrative documents, including application forms, instructions, and educational materials needed for the administration of this chapter shall be prepared and updated as necessary, by the Zoning Administrator, with the advice of the Planning Commission.

**Remove Figure 1.**

**Remove Figure 2.**

**Amend §152.041(A), as follows:**

**§ 152.041 REQUIREMENTS FOR PRELIMINARY SUBDIVISION APPLICATIONS.**

- (A) *Application.* Persons proposing to subdivide land must submit an application for preliminary subdivision using the form provided by the Town Clerk. Additionally, the preliminary subdivision application shall be accompanied by:
  - (1) an application fee, established by the Town Council,
  - (2) a preliminary plat meeting the requirements of (B), below,
  - (3) attachments required by within the application form including any and all proposed improvements, a draft development agreement, which may include a plan for the phased installation of those improvements; and
  - (4) Applications shall be legible and may include paper copies at the Town's discretion.

**Delete §152.041(B) in its entirety and replace as follows:**

- (B) Preliminary Subdivision Plat. The preliminary plat must be prepared by a professional land surveyor in accordance with the current edition of the Utah Council of Land Surveyors Final Subdivision Plat Guidance Document/Model Standard, adopted herein by reference, and the following Boulder Town code Sections including, but not limited to, the following:
  - (1) vicinity map clearly displaying the location of the proposed subdivision relative to local landmarks;

- (2) a map displaying all adjoining lots, parcels, easements,
- (3) show proposed building envelopes, if any.
- (4) provide a table showing the total area of the proposed subdivision, the area of each proposed lot and right-of-way in square feet and acres, and all calculations made in averaging lot sizes where that option is used;
- (5) provide a signature block for the signature of the Mayor to indicate approval of the preliminary plat; and
- (6) show proposed lots or areas within lots that will be dedicated to common use, affordable housing, or open space protection; including continuing agricultural use.
- (7) The signature block for owners must include all beneficiaries of easements.

**Amend the introductory sentence of 152.041 (C) as follows:**

(C) *Required subdivision site information.* The following subdivision site information is required:

**Revise §152.041(C)(3) by removing the word “railroads.”**

**Revise §152.041(G)(1)(b) as follows:**

- (b) The Town shall review and approve the applicant’s ability to provide culinary water or water rights to each lot in the subdivision. The preliminary plat shall not be approved without the applicant providing assurances of culinary water to each subdivision lot in the form of: 1. a connection with the Boulder Farmstead Water Company providing service sufficient for each lot in the subdivision; or 2. underground water rights available to the applicant as shown by, and on file with, the State Engineer’s office sufficient in amount to provide culinary water to each lot in the proposed subdivision from an approved underground source.

**Replace §152.041(H)(1)-(6) in its entirety, as shown below.**

(H) *Subdivision roads and streets*

- (1) The street layout and design shown on the proposed preliminary plat shall provide safe access to all proposed lots via a public or private street. Access may also be extended to a limited number of lots within the subdivision or, where it historically has existed, to adjoining lots or parcels by private driveways, but only as provided below.
- (2) A professional engineer hired by the Town may review the proposed street and driveway layout and design for compliance with these and other applicable Town standards.
- (3) If the proposed subdivision will have access to a State highway, a copy of

the application for the access permit required by the Utah Department of Transportation (UDOT) shall be provided with the preliminary plat. Approval of the final plat will be conditioned on approval of the access permit.

- (4) The preliminary subdivision application shall include a proposed permanent arrangement for the maintenance of all existing and proposed streets, private or public, and for private driveways. The maintenance options that may be proposed are:
  - (a) dedication of a proposed street to the Town, making it a public street, maintained by the Town; or
  - (b) private streets on rights-of-way dedicated to public use, but not accepted by the Town for maintenance. A proposed maintenance arrangement for the private streets must accompany the application for preliminary subdivision approval.
  - (c) The Town is not obliged to accept any street for maintenance. It may require the use of private streets.
  - (d) Private driveways may be used to access no more than four lots within a proposed subdivision. They may also be used to preserve historic routes of access to adjoining lots or parcels, though platting a public or private street for that purpose may be required if it is reasonably anticipated that the existing lot or parcel being served may be subdivided in the future. A proposed maintenance agreement for any private driveway/s must accompany the application for preliminary subdivision approval.
  - (e) The maintenance arrangements required above must run with the land and be enforceable by the Town. If approved, they must be recorded prior to the Town's review and approval of the final plat. They may include a clause rendering them inoperative if the final plat is not approved and recorded.
- (5) Flag lots extending to an existing or proposed public or private street will be permitted, and may be required, as an alternative to private driveways. The "pole" of a flag lot must be at least 40 feet in width.

(6) PLACEHOLDER FOR NEW STREET STANDARDS

**Delete §152.042 in its entirety, leave this number as a placeholder so that renumbering at the section level is not required.**

**Revise §152.046 as shown below.**

**§ 152.046 EFFECT OF PRELIMINARY SUBDIVISION APPROVAL AND EFFECTIVE PERIOD.**

- (A) *For subdivisions not providing any required improvements and subdivisions creating only one lot*

- (1) For subdivisions that will provide no required improvements and/or create only one new lot, preliminary subdivision application approval by the Town Council shall serve as final subdivision approval. Following approval of the preliminary subdivision application, the preliminary subdivision plat shall be revised, as required by the Town Council, and presented to the Town Clerk for review. If it complies with all Town requirements for a final plat and all conditions imposed by the Town Council, it may be recorded
  - (2) Approval by the Town Council shall not authorize the division, transfer, sale, or development of land until the final subdivision plat has been recorded.
  - (3) Approval of a preliminary subdivision application that includes no required improvements and/or creates only one new lot shall be effective for a period of one year from the date of approval by the Town Council.
  - (4) If a preliminary subdivision plat is not revised as required by the Town Council and presented to the Town Clerk for review and recordation within one year from the date of approval, the preliminary subdivision application approval shall be void, and the applicant required to submit a new preliminary subdivision application, subject to the then existing application and approval requirements.
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- (B) *For subdivisions providing required improvements or creating more than one new lot.*
- (1) For subdivisions that are required to provide required improvements, approval of the preliminary subdivision application by the Town Council shall include approval and execution of a development agreement that permits the applicant to proceed with the construction and installation of improvements, either for the entire subdivision, or by phase.
  - (2) A final plat or, for phased subdivisions, plats shall be prepared and submitted to the Town Clerk for review and recording upon completion, inspection, and acceptance of the required improvements. No lot may be offered for sale or transfer, sold or transferred, until the final plat is recorded.
  - (3) Each development agreement shall include provisions stating what happens if improvements are not completed and/or a final plat is not recorded as scheduled in that agreement. Renegotiation of the agreement may be allowed, but failure to comply or to renegotiate in a timely manner (with 'timely' being specifically defined) shall render the Town's approval of the subdivision void.

**Replace §152.047 in its entirety as shown below:**

**§ 152.047 SITE PREPARATION WORK PROHIBITED.**

No excavation, grading or regrading preparatory to subdivision development shall take place on any subdivision site, and no building permit shall be issued by the Town, until a development agreement that includes approval of all required improvements has been executed as provided by this chapter or, where no improvements are required, a final subdivision plat has been approved and recorded. This prohibition is not meant to prevent excavation, grading, or regrading for agricultural practices or the routine maintenance of existing structures and improvements.

**Remove Figure 3.**

**Revise §152.061(B)(1) as shown below:**

**§ 152.061 REQUIREMENTS FOR FINAL SUBDIVISION APPLICATIONS.**

(B) Final Subdivision Plat

- (1) A final subdivision plat, prepared by a professional land surveyor, conforming to current surveying practice and in a form acceptable to the County Recorder for recordation. The final subdivision plat presented to the Town Clerk shall contain the information required by § 152.041(B) plus any revisions or additions required by the Town Council as a condition of preliminary subdivision application approval.

**Delete 152.069 in its entirety and leave number as placeholder:**

**Remove Figure 4.**

**Delete §152.080 in its entirety. Delete §152.081 in its entirety. Leave these section numbers as placeholders so that renumbering at the section level is not required.**

**Replace §152.095 in its entirety, as follows:**

**§ 152.095 CONSTRUCTION OF REQUIRED SUBDIVISION IMPROVEMENTS.**

- (A) Subdivision improvements required by approval of the preliminary plat shall be made in compliance with all Town requirements and an approved development agreement before a final plat may be recorded and any lots offered for sale.
- (B) The construction or installation of required improvements and the recording of final plats may be phased, if so provided by the approved development agreement.

**Delete §152.096 in its entirety. Leave the section number as a placeholder so that renumbering at the section level is not required.**

Delete (c) from §152.131 (A)(1), as shown below:

**§ 152.131 NOTICE REQUIRED BY THE ACT FOR PUBLIC HEARINGS AND PUBLIC MEETINGS TO CONSIDER THE ADOPTION OR ANY MODIFICATIONS OF THIS CHAPTER; NOTICE OF FINAL ACTION.**

(A) *Public hearings.* The Town Clerk, for public hearings before the Council and the Planning Commission Secretary before the Commission, shall provide notice of the public hearing to consider the adoption or any modification of this chapter as follows:

(1) Notice of the date, time, and place of each public hearing, at least ten calendar days before the public hearing, which notice shall be:

(a) Mailed to each “affected entity,” as defined herein;

(b) Posted in at least three public locations within the town or posted on the official website of the town; and

Delete (c) from §152.132 (A)(1), as shown below, re-letter accordingly:

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

(A) *Public hearings.* The Planning Commission Secretary, for public hearings before the Commission, shall provide notice of the public hearing to consider a preliminary subdivision application as follows:

(1) Notice of the date, time and place of the public hearing, at least ten calendar days before the public hearing, which notice shall be:

(a) Mailed to each “affected entity,” as defined herein;

(b) Posted in at least three public locations within the town, or posted on the official website of the town;

(c) Sent by United States Mail to all owners of record of real property within 300 feet of the subject property proposed for preliminary subdivision application approval.

## Amendments to Chapter 153

Remove Figures 1-6.

Replace §153.047 in its entirety, as follows:

### § 153.047 PROVISION OF ADMINISTRATIVE GUIDELINES.

All administrative documents, including application forms, instructions, and educational materials needed for the administration of this chapter shall be prepared and updated, as necessary, by the Zoning Administrator, with the advice of the Planning Commission

Delete §153.189. Leave this number as a placeholder so that renumbering at the section level is not necessary.

Delete (a) from §153.381(A)(1) as shown below, re-letter accordingly:

### § 153.381 REQUIRED NOTICE OF PUBLIC HEARINGS AND PUBLIC MEETINGS TO CONSIDER GENERAL PLAN OR GENERAL PLAN AMENDMENT APPLICATIONS.

(A) *Public hearings.* The Town Clerk shall provide notice of each public hearing to consider the adoption or any modification of the General Plan, as presented by a General Plan amendment application, as follows:

- (1) Notice of the date, time and place of each public hearing, at least ten calendar days before the public hearing, which notice shall be:
  - (a) Mailed to each “affected entity” as defined herein and the Act; and
  - (b) Posted in at least three public locations within the town or on the town’s official website.

Delete (a) from §153.382(A)(1) as shown below, re-letter accordingly:

### § 153.382 REQUIRED NOTICE OF PUBLIC HEARINGS AND PUBLIC MEETINGS TO CONSIDER THE ADOPTION OR ANY MODIFICATIONS OF LAND USE ORDINANCES, INCLUDING THIS CHAPTER, ZONING DISTRICTS MAP, OTHER OFFICIAL MAPS AND NOTICE OF FINAL ACTION.

(A) *Public hearings.* The Town Clerk shall provide notice of each public hearing to consider the adoption or any modification of a land use ordinance, including this chapter, Zoning Districts Map or other official map, as presented by a land use ordinance amendment application, zoning districts map amendment application or official map amendment application as follows:

- (1) Notice of the date, time and place of each public hearing, at least ten calendar days before the public hearing, which notice shall be:
  - (a) Mailed to each “affected entity” as defined herein and the Act; and
  - (b) Posted in at least three public locations within the town, or on the town’s official website.

Delete (A)(1) from §153.383 as shown below, re-letter accordingly:

### § 153.383 REQUIRED NOTICE FOR OTHER PUBLIC HEARINGS.



When required by the provisions of this chapter for a land use application, the Town Clerk shall provide notice of each public hearing as follows:

- (A) Notice of the date, time and place of each public hearing, at least ten calendar days before the public hearing, which notice shall be posted in at least three public locations within the town or on the town's official website.
- (B) Notice of the date, time and place of each public hearing shall be mailed at least ten calendar days before the public hearing to each applicant;
- (C) Provide to each applicant a copy of each staff report regarding the application at least three business days before the public hearing; and
- (D) The Town Clerk shall notify the applicant of any final action taken by the Zoning Administrator, Planning Commission, or Council for any land use application.

APPROVED and PASSED this 7<sup>th</sup> day of December, 2023.

ATTEST:

\_\_\_\_\_  
Boulder Town Clerk

\_\_\_\_\_  
Boulder Town Mayor

VOTE

Judy Drain, Mayor \_\_\_\_\_

Gladys LeFevre, Councilmember \_\_\_\_\_

Elizabeth Julian, Councilmember \_\_\_\_\_

Jim Catmull, Councilmember \_\_\_\_\_

Conrad Jepsen, Councilmember \_\_\_\_\_