

# BOULDER TOWN

STATE OF UTAH

## SUBDIVISION ORDINANCE

CHAPTER 152 OF BOULDER TOWN CODE

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**\*\*ORDINANCE ADOPTION\*\***

**BOULDER TOWN, STATE OF UTAH**  
**SUBDIVISION ORDINANCE**

**AN ORDINANCE ENACTING A SUBDIVISION ORDINANCE, REGULATING  
THE SUBDIVISION OF LANDS WITHIN THE INCORPORATED AREAS OF  
BOULDER TOWN, GARFIELD COUNTY, STATE OF UTAH.**

**WHEREAS**, the Boulder Town Council as the legislative body of Boulder Town, State of Utah, specifically finds that it is in the best interest of the safety and welfare of the citizens of the town, to enact a subdivision ordinance.

**NOW THEREFORE BE IT ORDAINED AND ENACTED** by the Boulder Town Council, State of Utah to rescind and supersede, in its entirety, the Subdivision Ordinance for Boulder Town, Garfield County, State of Utah (Chapter 152 of Boulder Town Code).

**ORDAINED AND ENACTED** by the Boulder Town Council, State of Utah, on this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Judy Drain  
Boulder Town Mayor

ATTEST:

\_\_\_\_\_  
Jessica LeFevre  
Boulder Town Clerk

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# GENERAL PROVISIONS

## 152.001 SHORT TITLE

This chapter shall be known, and may be cited as the “Boulder Town Subdivision Ordinance” and may be identified within this document as “this ordinance,” “this chapter,” or “Subdivision Ordinance”.

## 152.002 PURPOSE.

This ordinance is enacted to require that a subdivision plat comply with the provisions of this ordinance, Utah law (UCA 10-9a-6), and before:

1. the subdivision plat may be filed and recorded in the county recorder's office; and
2. lots may be sold.

## 152.003 AUTHORITY.

State of Utah Municipal Land Use, Development, and Management Act (UCA 10-9a).

## 152.004 APPLICABILITY.

This ordinance shall govern and apply to the subdivision of all lands within the municipal boundaries of Boulder Town, Garfield County, State of Utah (hereinafter the “town”).

## 152.005 INTERPRETATION.

In interpreting and applying the provisions of this ordinance, the requirements contained herein are declared to be the minimum requirements for the purpose set forth.

## 152.006. SEVERABILITY.

If any section of this ordinance should for any reason be found invalid, by a court of competent jurisdiction, the remaining sections nevertheless shall be carried into effect.

## 152.007 FEES.

Appropriate fees shall be charged for building permits and inspections, land use applications, variance or appeal requests, or any other service required by this ordinance. Such fees shall be established via resolution by the Boulder Town Council.

## 152.008 PENALTIES.

Any civil offense against this ordinance shall be a Class C Misdemeanor, which shall be punishable in accordance with Utah law.

### **152.009 APPEALS.**

Pursuant to Utah Law, no person shall challenge in District Court, the town's land use decisions made consistent with Utah Law and this ordinance, until said person has exhausted all administrative remedies as provided herein and by **UCA 10-9a-7**.

1. Any person with standing aggrieved by any decision of the Town Council shall have the right to make such appeals as provided by this ordinance or Utah law (**UCA 10-9a-7**).
2. Town Council decisions shall be final at the local level and may be appealed by:
  - a. requesting arbitration and mediation through the Office of the Property Rights Ombudsman; and/or
  - b. filing a Petition for Review to the local State District Court.
3. Appeals shall be in writing and shall be filed with the Town Clerk not more than 10 days after the decision by the Town Council. The Property Rights Ombudsman and/or local State District Court may affirm, modify, or reverse the decision of the Town Council. Appeal review shall be recorded in an open public meeting.
4. The Property Rights Ombudsman's and/or local State District Court's decision shall be final.

### **152.010 LEGAL NONCONFORMING PROPERTIES.**

Utah law and Boulder Town Code shall govern the establishment, restoration, reconstruction, extension, alteration, expansion, or substitution of any approved nonconforming use and any approved noncomplying structure related to such use.

### **152.011 SITE PREPERATION WORK PROHIBITED.**

No excavation, grading, or other improvement shall take place on any land within a proposed subdivision until:

1. the final subdivision plat or record of survey has been approved by the town;
2. the subdivision plat has been filed or recorded at the office of the County Recorder;
3. applicable deeds have been recorded at the office of the County Recorder; and
4. all applicable fees have been paid.

### **152.012 BUILDING PERMITS.**

No building permit shall be issued for any lot in a proposed subdivision until the requirements of this ordinance have been met.



### **152.013 DEFINITIONS.**

This ordinance shall be interpreted using the definitions provided in the State of Utah Municipal Land Use, Development, and Management Act (**UCA 10-9a**) and the Boulder Town Zoning Ordinance except for, in addition to, or as modified by the following:

**ACCEPTANCE.** Actions of the Town to take ownership of rights of way dedicated to public use as shown on the subdivision plot or other recordable downward.

**DEDICATION.** Action of the developer to transfer ownership and control of rights of way shown on the subdivision plot or other recordable elements from private to public ownership.

**DRY SUBDIVISION.** A recorded subdivision located within the incorporated areas of Boulder Town without infrastructure improvements made by the developer (i.e., drinking water system, wastewater disposal system, electricity, road improvements, etc.).

**EASEMENT.** An interest in land belonging to another person, so that the easement owner has a limited right to use or enjoy the other person's property.

**PRESCRIPTIVE EASEMENT.** A prescriptive easement is created when a person uses another person's property (even though the use was not expressly agreed to) for a prolonged period. Prescriptive easements recognize long-standing usage, especially if the use was relied upon for the enjoyment of property. To establish a prescriptive easement, the use must be:

1. Open, or used in such a way that the property owner would be aware that the property is being used;
2. Notorious, or used in such a way that the general public would be aware that the property is being used;
3. Adverse to the owner's interest, or without permission or approval from the property owner; and
4. Continuously used for at least 10 years for private use; or
5. Continuously used for at least 20 years for public use.

**RIGHT-OF-WAY.** The legal right, established by usage or grant, to pass along a specific route through grounds or property belonging to another owner.

**MAINTENANCE RESPONSIBILITY.** The obligation and responsibility of keeping road, street, or improvement in a condition that provides responsible use.

## **SUBDIVISION PLAT REQUIREMENTS**

### **152.014 SUBDIVISION PLAT.**

A subdivision plat submitted to the town shall meet the minimum requirements of **UCA 10-9a-603(2)** in addition to the following:

1. signature blocks for:
  - a. surveyor's certificate;
  - b. the town administrative land use authority;
  - c. town council approval;
  - d. owner's certificate;
  - e. acknowledgement;
  - f. certificate of recording;

### **152.015 AMENDED PLAT.**

An amended subdivision plat submitted to the town shall meet the minimum requirements of **UCA 10-9a-608** in addition to the following:

1. a title stating distinguishing the amended plat from the original plat; and
2. signature blocks for:
  - a. surveyor's certificate;
  - b. the town administrative land use authority;
  - c. town council approval;
  - d. owner's certificate;
  - e. acknowledgement;
  - f. certificate of recording;

### **152.016 RECORD OF SURVEY.**

A record of survey for an exempt subdivision submitted to the town shall meet the minimum requirements of **UCA 17-23-17** in addition to the following:

1. signature blocks for:
  - a. a title stating “Record of Survey for [the specific exempted subdivision]”;
    - i. (i.e., Minor Lot Subdivision, Agricultural Land Exemption, etc.)
  - b. the town administrative land use authority;
  - c. town council approval;
  - d. owner’s certificate;
  - e. acknowledgement;
  - f. certificate of recording;

### **152.017 PLANNED UNIT DEVELOPMENTS.**

A planned unit development plat submitted to the town shall meet the minimum requirements of **UCA 10-9a-603(2)** in addition to the following:

1. signature blocks for:
  - a. surveyor’s certificate;
  - b. the town administrative land use authority;
  - c. town council approval;
  - d. owner’s certificate;
  - e. acknowledgement;
  - f. certificate of recording;

## **DESIGN STANDARDS**

### **152.018 NATURAL CONDITIONS.**

All subdivisions shall meet the following minimum standards:

1. The design and development of subdivisions shall preserve insofar as possible the natural terrain, natural drainage, existing topsoil, and trees.
2. Land subject to hazardous conditions (i.e., slides, mud flows, rock falls, snow avalanches, possible mine subsidence, shallow water table, open quarries, floods, etc.) shall be identified and shall not be subdivided until the hazards have been eliminated or will be eliminated by the subdivision and construction plans.

### **152.019 LOT STANDARDS.**

All lots in a subdivision shall meet the following minimum standards:

1. Lots and buildings shall meet the minimum area, width, and setback requirements of the Boulder Town Zoning Ordinance.
2. All lots shall have written approval from the local or State health department for onsite wastewater disposal.
3. Lots with a private or shared well shall have written approval from the State of Utah Division of Water Rights, Division of Drinking Water, and the local or State health department.
4. All lots shall have a building footprint located entirely out of a floodplain.
5. All lots shall front a public or private roadway with legal access.
6. No single lot shall be divided by a Boulder Town and Garfield County boundary line.
7. Lots on a cul-de-sac shall have a minimum 30' width at the front property line.

### **152.020 STREET AND ROAD STANDARDS.**

All streets and roads in a subdivision shall meet the following minimum standards:

1. Streets and roads shall meet the minimum standards of those they are connecting to.
2. Streets and roads shall have at least 6 inches of pit run rock and 3 inches of gravel.
3. Streets and roads must be graded and drained with adequate crowning, pipe culverts, and barrow ditches.
4. Drainage and improvements shall be illustrated on the subdivision plat.
5. Each road or street proposal shall be reviewed, inspected, and approved by the town before any building permit is issued.

**152.021 OPEN SPACE.**

**Would the town like to explore open space standards for subdivisions?**

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# IMPROVEMENT STANDARDS

## 152.022 STREET AND ROAD IMPROVEMENTS.

1. **Minimum Standards.** Streets and roads shall be designed and built to the Boulder Town Road Standards specifications (See EXHIBIT X), and AASHTO Standards. The designing engineer shall certify in writing that the minimum standards have been met prior to any site work or issuance of any building permits in the subdivision.
2. **Lot Frontage.** An application to subdivide lands shall not be considered unless all proposed lots and other areas to be subdivided have adequate frontage, with minimum widths required by this ordinance and the zoning ordinance. All lots in a proposed subdivision shall be accessed on a private or public street improved to the minimum standards of this ordinance.
3. **Rights of Way.** Streets and roads in Boulder Town shall have the following minimum right of way widths:

Street or Road Type	Minimum Width
Major Collector	100 feet
Minor Collector	66 feet
Collector Street or Road	66 feet
Major Street	66 feet
Minor Street or Frontage Road	66 feet
Private Street or Road	50 feet

4. **Easements.** Easements shall follow lot lines whenever practical and shall have a minimum width of 20 feet apportioned equally in abutting properties except where the grade or terrain may require additional space for utilities or maintenance of the easement.
5. **Flag Lots.** Flag lots in any subdivision shall be prohibited. Lots shall meet the minimum width and frontage requirements of this ordinance and the zoning ordinance.
6. **Intersections.** Streets and roads shall intersect at 90-degree angles and no more than 4 streets or roads shall enter any intersection.
7. **Grades.** No street or road shall exceed a 7% grade unless specifically approved by the town and certified by a licensed engineer.

8. **Signage.** Street and road name signs shall be required and shall be installed by the subdivider. Signage shall conform to the minimum standards of the town and provided where necessary for proper identification of all streets or roads.

9. **Dedication and Acceptance.**

- a. The subdivider shall identify public streets, roads, and improvements that are to be transferred to public ownership on the subdivision plat or other recordable document. Dedication shall not occur until widths, alignments, location and design features of the proposed rights of way are approved by the town.
- b. The subdivider shall bring public streets, roadways, and other public improvements to the minimum standards of the town and maintain them in that condition for a period of 1 year before maintenance as public facility may be requested. Only after inspection and approval shall the town accept the facilities for public maintenance.
- c. Town services shall not be provided to the subdivision until maintenance responsibility for the public improvements is accepted, and the facilities are formally dedicated to the town.
- d. In the event the town does not accept maintenance responsibility of the proposed public improvements, the subdivider shall be so advised in writing by the town stating the reason for the rejection or necessary corrective actions. If the needed corrections are not made within a reasonable time, as so stated in the notice, the town may have the improvements completed and paid for out of the security deposits for the subdivision.

**152.023 POTABLE DRINKING WATER.**

1. **Supply.** All subdivisions shall have a permanent supply of potable water available to each lot in the subdivision. Hauling of water to lots in a subdivision shall be prohibited.
2. **Approval.** Water quantity, quality, and distribution system plans shall be approved, in writing, by the State of Utah Department of Environmental Quality and Divisions of Drinking Water and Water Rights.
3. **Quantity.** A minimum of 0.45 acre-feet of water shall be available to each lot in a proposed subdivision and shall have written approval from the Utah Division of Water rights for domestic use. If outdoor water use is anticipated for irrigation, livestock, landscaping, recreation, etc., additional water rights shall be required for each lot and shall have written approval from the Utah Division of Water rights for such use.

#### 152.024 WASTEWATER DISPOSAL.

1. **System.** All subdivisions shall have a feasible wastewater disposal system available to each lot in the subdivision.
2. **Approval.** An onsite wastewater system feasibility application shall be approved in writing by the local health department for any proposed subdivision in Boulder Town.
  - a. **Onsite Septic Systems.** A subdivision application proposing individual septic systems for each lot shall include written approval from the health department for wastewater feasibility prior to consideration by the town.
  - b. **Wastewater Treatment Facilities.** A subdivision application proposing a public or private wastewater treatment facility shall include written approval for wastewater feasibility, and an approved construction permit from the local health department or DEQ prior to consideration by the town.

#### 152.025 FIRE PROTECTION.

1. **Requirements.** All subdivisions shall have a fire protection plan prepared by a licensed engineer and approved by a State, County, or town fire official prior to consideration by the town.
2. **Compliance.** All fire flow, line size, and hydrant standards shall conform to the International Fire Code.
3. **Line Size.** Water distribution lines in all subdivisions shall be a minimum of 8 inches in diameter. Minimum line sizes may be increased to provide for required fire flow.
4. **Loops and Valves.** Water systems shall be looped when possible and valves shall generally be spaced such that a break in any one length of main will put no more than 1,000 feet out of service during repairs.

#### 152.026 STORM DRAINAGE.

1. **Requirements.** A stormwater drainage system shall be provided and shall be separate and independent of the wastewater disposal system. The final plans for the drainage system shall be prepared by a licensed engineer and approved by the town prior to any site work or issuance of any building permits in the subdivision.
2. **Ditches and Canals.** No ditch or canal shall be approved as suitable for the use of storm drainage water without the written permission of the appropriate ditch or canal company or of the water users, for such use. No ditch or canal shall be used for stormwater unless adequately improved to handle such water as might be reasonably expected to flow from canal ditch water, subdivision runoff water, and other water expected to reach such canal or ditch. The subdivider shall work with irrigation companies as to the responsibility for the periodic inspection, cleaning, and maintenance of such ditches, pipes, and culverts. In



cases where canals or ditches cross public roads or proposed public roads, specifications and grades for pipe or culvert must be approved by the town.

3. **Impact on Adjoining Properties Prohibited.** The development of a subdivision may not cause drainage from the subdivision to impact adjoining properties. The designing engineer shall prepare drainage plans to be inspected and approved by the town. Holding and retention basins shall be the preferred method of retaining drainage.

#### **152.027 FLOOD PLAINS.**

All lots in any proposed subdivision shall have sufficient area for the location of a dwelling entirely outside the flood plain, and where all setback requirements of the zoning district in which the subdivision is located, can be met.

#### **152.028 OTHER UTILITIES.**

All utilities shall be provided through underground service in properly recorded easements or rights of way. Existing overhead power lines within the proposed subdivision shall be relocated underground whenever feasible.

## **IMPROVEMENTS GUARANTEE**

### **152.029 GUARANTEE REQUIRED.**

In lieu of the actual completion and acceptance of the improvements required by this ordinance and before approval of the final plat by the town council, the subdivider shall guarantee the installation and construction of the required improvements free from defective material or workmanship and in compliance with all town standards.

### **152.030 FORM OF GUARANTEE.**

Said guarantee shall be in the form of a cash bond or irrevocable letter of credit for an amount equal to one-hundred twenty percent (120%) of the cost of improvements not previously accepted and as estimated by the developer's engineer and approved by the town.

### **152.031 REQUEST FOR FINAL INSPECTION.**

After the completion of all subdivision improvements, the subdivider shall make a written request to the town for a final inspection. Inspections shall be made within eight (8) days from the date of request by the county public works director or the county road supervisor. A letter of final inspection shall be written within eight (8) days by the town specifying the acceptability of all subdivision improvements, or if rejected, a letter stating the deficiencies.

### **152.032 RELEASE OF GUARANTEE.**

Once all improvements are approved by the town, any guarantee filed with the town therefor shall be released within five (5) days from the date of approval. In any event, the subdivider shall provide the town with a letter of guarantee stating that all subdivision improvements will be maintained in a good state of repair and free from defective material or workmanship which becomes evident for one year from their request for final inspection, and will supply the bond as required in this section. A two (2) year bond may be required pursuant to **UCA 10-9a-604.5**, as amended.

### **152.033 INSTALLATION TIME PERIOD.**

All such improvements shall have been installed within a one-year time period unless extended by the town council for one additional year.

### **152.034 PARTIAL RELEASE.**

1. A letter of credit or cash bond may be released in part, as progress payment for improvements, subject to the following conditions:
  - a. The developer shall submit to the county public works director, or other assigned county inspector, a request for payment against the letter of credit, showing to whom and for what amount the release is requested. Upon inspection by the county, and approval of the requested amount, the county will authorize the holder of the credit account to disperse the approved payments.
  - b. Said payment requests may be made upon completion of the various phases of development as follows:
    - i. Complete water system installation, including any required storage facility, wells, hydrants or other improvements, etc.
    - ii. Complete road construction, including all survey monuments, traffic control and street name signs. Road construction shall also include storm drainage systems.
    - iii. Complete waste disposal system, as required.
    - iv. Staking of lot corners and any other required survey field work.
    - v. Completion of utilities, including power, telephone, data transmission lines, and natural gas, if bonded by the developer.
2. Requests shall not be submitted more frequently than on a monthly basis. A minimum of twenty percent (20%) of each element shall be retained as required for the guarantee bond required in subsection G of this section.

### **152.035 RETENTION.**

In any event, twenty percent (20%) of the total amount of all improvements shall be retained until one year following completion of the project as a guarantee of quality of improvements. A cash bond or irrevocable letter of credit for twenty percent (20%) of the total amount of all improvements shall be filed prior to the release of the improvement bond.

### **152.036 COST ESTIMATE FOR IMPROVEMENTS PRIOR TO FINAL RECORDING.**

For a developer who proposes to install improvements prior to recording a final plat, as provided by this section, a cost estimate of improvements shall be submitted by the developer's engineer and approved by the town prior to the start of construction, as the basis for determining the amount of the twenty percent (20%) guarantee bond that shall be posted upon final approval of the improvements by the town.

# PROCESS FOR SUBDIVISION REVIEW AND APPROVAL

## 152.037 CONCEPTUAL PLAN REVIEW

Pre-application meetings for subdivisions are not required pursuant to **UCA 10-9a-604.1**. However, the town strongly encourages a conceptual plan review meeting be scheduled with the subdivider and the town to provide recommendations and educate the subdivider on the requirements of this ordinance. If a subdivision applicant requests a pre-application meeting, the town shall, within 15 business days after the request, schedule the meeting to review the concept plan and give initial feedback.

## 152.038 ADMINISTRATIVE LAND USE AUTHORITY

**The following is state law. We will need to decide how boulder town wants to form the administrative land use authority.**

The administrative land use authority may complete a preliminary subdivision application review in a public meeting or at a municipal staff level.

(7) With respect to a preliminary application to subdivide land, an administrative land use authority may:

(a) receive public comment; and

(b) hold no more than one public hearing.

(8) If a preliminary subdivision application complies with the applicable municipal ordinances and the requirements of this section, the administrative land use authority shall approve the preliminary subdivision application.

The administrative land use authority shall review and approve or deny a final subdivision plat application in accordance with the provisions of **UCA 10-9a-604.1** and this ordinance.

(a) may permit concurrent processing of the final subdivision plat application with the preliminary subdivision plat application; and

(b) may not require planning commission or city council approval.

(10) If a final subdivision application complies with the requirements of this section, the applicable municipal ordinances, and the preliminary subdivision approval granted under Subsection (9)(a), a municipality shall approve the final subdivision application.

# PRELIMINARY PLAT

## 152.039 REQUIREMENTS.

**Submission.** Preliminary plat subdivision applications shall be officially submitted to Boulder Town and shall only be deemed complete once all requirements of this ordinance and the Boulder Town Subdivision Checklist have been met (See EXHIBIT X.):

### Subdivision Application.

1. **Applicant Information.** The applicant shall provide the current owner of real property, mailing address, email address, and phone number.
2. **Subdivision Information.** The applicant shall provide the proposed subdivision type, number of lots, minimum acreage of the lots, current zoning, address of the current parcel, property tax ID, proposed street or road access to all lots in the subdivision, and the proposed development of the subdivision.
3. **Subdivision Plat.** A preliminary plat shall meet the minimum requirements of this ordinance and UCA 10-9a-6 and UCA 17-23-17.
4. **Potable Drinking Water.** Potable drinking water systems, including water rights, source, storage, and supply lines shall have written approval from the State of Utah Divisions of Water Rights and Drinking Water.
5. **Wastewater Disposal.** Subdivision applications shall have written approval from the Southwest Utah Public Health Department and/or the State of Utah Department of Environmental Quality for Subdivision wastewater disposal feasibility.
6. **Local Approval.** If the proposed subdivision will be part of an existing Home Owner's Association, Special Service District, Local Improvement District or any other local entity, written approval from said entity shall be provided for applicable services.
7. **Utility Companies.** A will-serve letter shall be provided from any utility company servicing the area (i.e., power provider, fiber-optic internet, gas, etc.).
8. **Construction Costs.** Estimated construction cost and proposed method of financing of the streets and related facilities; water distribution system; wastewater disposal systems; storm drainage facilities; and such other utilities as may be necessary.
9. **Other.** Any other data or applicable documentation for the proposed subdivision application as may be provided by the applicant.

**Subdivision Amendment Application.**

1. **Applicant Information.** The applicant shall provide the current owner of real property, mailing address, email address, and phone number.
2. **Subdivision Information.** The applicant shall provide the proposed subdivision amendment type, subdivision name, current zoning, address of the current lot(s), and property tax ID(s).
3. **Subdivision Plat.** The amended plat shall meet the minimum requirements of this ordinance and UCA 10-9a-6 and UCA 17-23-17.
4. **Other.** Any other data or applicable documentation for the proposed subdivision application as may be provided by the applicant.

**Plat Requirements.** A preliminary plat shall meet the minimum requirements of this ordinance and UCA 10-9a-6 and UCA 17-23-17, including:

**Subdivision Plat.**

- 1.

**Minor-Lot Subdivision Plat.**

- 1.

**Subdivision Amendment Plat.**

- 1.

**Planned Unit Development Plat.**

- 1.

**152.040 REVIEW.**

**I will complete this section once we decide how boulder town wants to form the administrative land use authority.**

## **FINAL PLAT**

**I will complete this section once we decide how boulder town wants to form the administrative land use authority.**

### **152.041 REQUIREMENTS.**

1.

### **152.042 REVIEW.**

### **152.043 PHASE DEVELOPMENTS.**

### **152.044 RECORDING.**

The subdivision plat or record of survey shall be recorded or filed with deeds recorded, respectively, at the office of the County Recorder within 30 days of final approval by the administrative land use authority. If the applicable recordings and filings are not executed within the required timeframe, the final subdivision approval from Boulder Town shall be null and void and the applicant shall be required to submit a new preliminary subdivision application for review and consideration by the administrative land use authority.

## PLANNED UNIT DEVELOPMENTS

### 152.0 GENERAL.

**Approval.** Planned unit developments (PUDs) may be permitted by the administrative land use authority and town council in any zoning district. Approval for a planned unit development shall not be granted unless such development will meet the use limitations of the zoning district in which it is located and meet the density and other limitations of such districts, except as such requirements may be lawfully modified as provided by this ordinance. Compliance with the regulations of this section in no way excuses the developer from the applicable requirements of this ordinance, except as modifications thereof are specifically authorized in the approval of the application for the planned unit development.

**Intent.** These regulations are to encourage and provide means for effecting desirable and quality development by permitting greater flexibility and design freedom than that permitted under the basic district regulations, and to accomplish a well-balanced, aesthetically satisfying town and economically desirable development of building sites within a PUD. These regulations are established to permit latitude in the development of the building site if such development is found to be in accordance with the purpose, spirit and intent of this ordinance and is found not to be hazardous, harmful, offensive or otherwise adverse to the environment, property values or the character of the neighborhood or the health, safety and welfare of the community. It is intended to permit and encourage diversification, variation and imagination in the relationship of uses, structures, open spaces and heights of structures for developments conceived and implemented as comprehensive and cohesive unified projects. It is farther intended to encourage more rational and economic development with relationship to public services, and to encourage and facilitate the preservation of open lands.

### 152.0 CONDITIONS.

**Area.** Planned unit developments shall not have an area less than that approved by the administrative land use authority and town council as adequate for the proposed development.

**Uses.** A planned unit development that will contain uses not permitted in the zoning district in which it is to be located shall require a change of zoning district and shall be accompanied by an application for a zoning amendment, except that a residential use shall be considered to be a permitted use in any planned unit development, which allows residential uses and shall be governed by density, design and other requirements of the planned unit development permit.

Where a site is situated in more than one use district, the permitted uses applicable to such property in one district may be extended into the adjacent use district.

**Ownership.** The development shall be in single or corporate ownership at the time of application, or the subject of an application filed jointly by all owners of the property.



**Design.** The administrative land use authority and town council shall require such arrangements of structures and open spaces within the site development plan as necessary to ensure that adjacent properties will not be adversely affected.

**Density.** Density of land use shall in no case be more than 15 percent higher than allowed in the zoning district.

**Arrangement.** Where feasible, the least height and density of buildings and uses shall be arranged around the boundaries of the development.

**Specific Regulations.** Lot area, width, yard, height, density and coverage regulations shall be determined by approval of the site development plan.

**Open Space.** Preservation, maintenance and ownership of required open spaces within the development shall be accomplished by either:

1. Dedication of the land as a public park or parkway system; or
2. Creating a permanent, open space easement on and over the said private open spaces to guarantee that the open space remain perpetually in recreational use, with ownership and maintenance being the responsibility of an owners' association established with articles of association and bylaws, which are satisfactory to the legislative body.

**Landscaping.** Landscaping, fencing and screening related to the uses within the site and as a means of integrating the proposed development into its surroundings shall be planned and presented to the planning commission for approval, together with other required plans for the development. A planting plan showing proposed tree and shrubbery plantings shall be prepared for the entire site to be developed. A grading and drainage plan shall be submitted to the planning commission with the application.

**Signs.** The size, location, design and nature of signs, if any, and the intensity and direction of area or floodlighting shall be detailed in the application.

**Desirability.** The proposed use of the particular location shall be shown as necessary or desirable, to provide a service or facility that will contribute to the general wellbeing of the surrounding area. It shall also be shown that under the circumstances of the particular case, the proposed use will not be detrimental to the health, safety or general welfare of persons residing in the vicinity of the planned unit development.

## **152.0 ADMINISTRATIVE LAND USE AUTHORITY DETERMINATION.**

Considerations. In carrying out the intent of this section, the planning commission shall consider the following principles:

1. It is the intent of this section that site and building plans for a PUD shall be prepared by a designer or team of designers having professional competence in urban planning as proposed in the application. The commission shall be permitted to require the applicant to engage such professional expertise as a qualified designer or design team.
2. It is not the intent of this section that control of the design of a PUD by the planning commission be so rigidly exercised that individual initiative be stifled and substantial additional expense incurred; rather, it is the intent of this section that the control exercised be the minimum necessary to achieve the purpose of this section.

The planning commission shall be authorized to approve or disapprove an application for a PUD.

In an approval, the commission shall be permitted to attach such conditions as it deems necessary to secure compliance with the purposes set forth in this chapter. The denial of an application for a PUD by the planning commission shall be permitted to be appealed to the legislative body of the jurisdiction.

## **152.0 REQUIRED CONTRIBUTIONS.**

General. The legislative body, as part of the approval of a PUD, shall be permitted to require an applicant to make reasonable contributions to include, but not limited to any combination of the following:

1. Dedication of land for public park purposes.
2. Dedication of land for public school purposes.
3. Dedication of land for public road right-of-way purposes.
4. Construction of, or addition to, roads serving the proposed project where such construction or addition is reasonably related to the traffic to be generated.
5. Installation of required traffic safety devices.
6. Preservation of areas containing significant natural, environmental, historic, archeological or similar resources.

## **152.0 ACTION.**

**Approval.** The planning commission shall have the authority to require that the following conditions for a planned unit development (among others it deems appropriate) be met by the applicant:

1. That the proponents intend to start construction within 1 year of either the approval of the project or of any necessary zoning district change, and intend to complete said

construction, or approved stages thereof, within 4 years from the date construction begins.

2. That the development is planned as one complex land use rather than as an aggregation of individual and unrelated buildings and uses.

**Limitations.**

1. Upon approval of a PUD, construction shall proceed only in accordance with the plans and specifications approved by the planning commission and in compliance with any conditions attached by the jurisdiction as to its approval.

Amendment to approved plans and specifications for a PUD shall be obtained only by following the procedures here outlined for first approval.

The code official shall not issue any permit for any proposed building, structure or use within the project unless such building, structure or use is in accordance with the approved development plan and with any conditions imposed in conjunction with its approval.

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## EXEMPTIONS FROM PLAT REQUIREMENT

### 152.0 MINOR-LOT SUBDIVISION. UCA 10-9a-605(1)

Parcel(s) created from the division of incorporated land(s) are exempt from the subdivision plat requirements of this ordinance, if:

1. the record of survey has been reviewed by the administrative land use authority and certified that the proposed development qualifies as a minor-lot subdivision as set forth herein.
2. the parent parcel is being subdivided into 5 or less parcels that all front an existing dedicated, accepted, and improved Boulder Town right of way.
3. each proposed parcel shall conform to minimum area, width, and land use provisions of the current zoning district. An approved zone change in conjunction to the proposed minor-lot subdivision shall be required by the Town Council if the above conditions are not met. If the zone change request is denied by the Town Council, the minor-lot subdivision application shall be null and void.
4. the subdivider has provided:
  - a. approved connections to an existing public or private culinary water system for each proposed parcel. If a well is to be drilled, a well permit and water right number(s) with sufficient water rights approved by the State of Utah Division of Water Rights for the proposed location and use of the minor-lot subdivision;
  - b. a subdivision wastewater feasibility study performed by a licensed engineer and approved by the Southwest Utah Public Health Department;
  - c. utility plans for other utilities to be provided (power, gas, fiber optics, etc.)
5. a parcel created from a minor-lot subdivision shall not be further subdivided within 3 years of the filing and recording date of the minor-lot subdivision where the subject parcel was originally created.
6. before any minor-lot subdivision application is considered by the administrative land use authority, the subdivider shall furnish evidence of recordable deeds for each proposed parcel in the minor-lot subdivision.
7. the subdivider shall file the approved record of survey with the County Surveyor's Office and record the deeds with the County Recorder's Office within 60 days of the date of approval of the minor-lot subdivision by the administrative land use authority.
8. filing a record of survey for a minor-lot subdivision in Boulder Town contrary to the requirements set forth herein shall be null and void.

### **152.0 AGRICULTURAL LAND EXEMPTION. UCA 10-9a-605(2)**

Agricultural parcel(s) created from the division of incorporated land(s) are exempt from the subdivision plat requirements of this ordinance in accordance with **UCA 10-9a-605(2)**, in addition to the following:

1. newly created parcels shall meet the minimum parcel area of 6 acres;
2. if a parcel exempted as agricultural land is used for nonagricultural purposes as defined by the Farmland Assessment Act, the town shall require the lot to comply with the related plat requirements of this ordinance; and
3. upon final approval from the administrative land use authority, the developer shall file the record of survey with the County Surveyor's Office and record deeds with the County Recorder's Office.

### **152.0 METES AND BOUNDS SUBDIVISION UCA 10-9a-605(3)**

1. a person may not submit a document that subdivides property by metes and bounds unless it contains written approval from the administrative land use authority required by this ordinance. Recording a document otherwise shall be null and void.
2. the boundaries of each lot or parcel that is exempted shall be graphically illustrated on a record of survey and approved by the administrative land use authority.

### **152.0 PROPERTY BOUNDARY ADJUSTMENTS. UCA 10-9a-523**

To make a property boundary adjustment (i.e., parcel boundary or lot line adjustment), a property owner shall meet the requirements of **UCA 10-9a-523**, in addition to the following:

1. if a parcel that is the subject of a property boundary adjustment contains a dwelling unit, the town shall require a review of the boundary line agreement to ensure required setbacks and parcel areas are conforming to the corresponding zoning district(s); and
2. upon review of the property boundary adjustment, the town shall send written notice of the boundary line agreement's approval to the property owner within 14 days.

### **152.0 BOUNDARY LINE AGREEMENTS. UCA 10-9a-524**

Adjoining property owners executing a boundary line agreement, shall meet the requirements of **UCA 10-9a-524**, in addition to the following:

1. if a parcel that is the subject of a boundary line agreement contains a dwelling unit, the town shall require a review of the boundary line agreement to ensure required setbacks and parcel areas are conforming to the corresponding zoning district(s); and
2. upon review of the boundary line agreement, the town shall send written notice of the boundary line agreement's approval to the property owner within 14 days.

## **152.0 SUBDIVISION AMENDMENT. UCA 10-9a-608**

The administrative land use authority may consider an owner's petition for a subdivision amendment if:

1. the petition seeks to:
  - a. join two or more of the petitioning fee owner's contiguous lots;
  - b. subdivide one or more of the petitioning fee owner's lots, if the subdivision will not result in a violation of this Ordinance or a development condition;
  - c. adjust the lot lines of adjoining lots or between a lot and an adjoining parcel if the fee owners of each of the adjoining properties join the petition, regardless of whether the properties are located in the same subdivision;
  - d. on a lot owned by the petitioning fee owner, adjust an internal lot restriction imposed by the local political subdivision; or
  - e. alter the plat in a manner that does not change existing boundaries or other attributes of lots within the subdivision that are not:
    - i. owned by the petitioner; or
    - ii. designated as a common area.

## **152.0 PUBLIC RIGHT OF WAY SUBDIVISIONS.**

A parcel of land divided by a public (Town, County, or State) right of way is exempt from the subdivision plat requirements of this Ordinance and the owner of real property may legally subdivide the property, only as it is currently portrayed, by recording deeds at the Office of the County Recorder. Prior to recording the deeds, the exemption shall be confirmed and approved by the Administrative land use authority prior to recording of deeds.

## **DRY SUBDIVISIONS**

### **152.0 APPLICABILITY.**

This section shall apply to any lot or parcel in a dry subdivision located within the incorporated areas of Boulder Town. Additionally, this section shall apply to parcels previously divided by metes and bounds and any tract of land with a total land area of less than 1 acre within the incorporated areas of Boulder Town.

### **152.0 ROAD AND STREET IMPROVEMENTS.**

Unless specifically agreed upon and accepted by the town council, it shall be the responsibility of the subdivider to make the initial road improvements in a subdivision. The roads and streets shall be developed in accordance with town's minimum standards. If improved and maintained by the subdivider for a period of 1 year, the town may consider accepting the maintenance responsibilities thereafter and the subdivider may dedicate said rights of way to the town.

In the event that road improvements were not made by the subdivider, it shall be the responsibility of the landowners to make the initial road improvements, unless specifically agreed upon and accepted by the town council. Before making any improvements in a town right of way, landowners shall obtain an approved right of way encroachment permit from the town. If improved and maintained by the landowners for a period of 1 year, the town may consider accepting the maintenance responsibilities thereafter.

### **152.0 DEVELOPMENT REQUIREMENTS.**

To develop lot(s) within a dry subdivision, the owner(s) of said property shall:

1. own a lot or tract of land consisting of at least 1 acre;
  - a. If the individual lot or land area is less than 1 acre, the owner(s) shall:
    - i. own or purchase multiple contiguous lots that add up to a land area of at least 1 acre; and
    - ii. join the contiguous lots via the subdivision amendment process consistent with State law and this ordinance.
  - b. The local health department and town council may grant variances or allow exceptions when multiple lots are serviced by a water system or shared well.
2. receive a town water connection or own or purchase sufficient water rights and receive approval from the State of Utah to drill, or connect to an existing well;
3. meet the requirements of the County Building Official, State of Utah, and the local health department for potable drinking water and wastewater disposal systems.

Once subsections 1-3 of this Section have been completed and prove to be compliant with the requirements of this Ordinance, the property owner may apply for building permits and associated land use applications, if applicable. Developing a lot within a dry subdivision contrary to subsections 1-3 of this section shall be null and void.