

Draft 7/228/2024

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) and to amend as follows:

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” or “Subdivision Ordinance”.

152.002 PURPOSE.

This ordinance is established to provide for the orderly division of lands within the incorporated areas of Boulder Town, to avoid incompatibilities in land use, and to secure the provision and long-term maintenance of necessary infrastructure and services in an efficient and economical manner for existing and future residents. This ordinance is also enacted to require that an application for the subdivision of lands in Boulder Town comply with the provisions of The Boulder Town General Plan, this ordinance and Utah law (UCA 10-9a-6) before:

1. the subdivision plat or record of survey may be filed or recorded in the County Recorder’s Office; and
2. lots may be sold.

152.003 DEFINITIONS.

This ordinance shall be interpreted using the definitions provided in the Zoning Ordinance, LUDMA (UCA 10-9a-103, UCA 10-9a-604.1, UCA 10-9a-604.2) 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? (document?)**.

ADMINISTRATIVE LAND USE AUTHORITY (ALUA). The individual, board, or commission formally appointed or employed by the Town, including staff or the Planning Commission. The ALUA does not include the Town Council or a member of the Town Council.

COUNTY. Garfield County, State of Utah, United States of America.

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.

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.

IMPROVEMENT. For the purposes of this ordinance, an improvement shall mean the installation of infrastructure and utilities such as potable drinking water systems, power lines, roads, communication lines, wastewater disposal systems, building pads, or any other improvement to the property or subdivision.

PRIVATE ROAD. A transportation and utility easement that provides access to one or more lots or parcels and are not platted to or maintained by the Town. Private roads are maintained by the

landowners pursuant to a road maintenance agreement that runs with the land. The area of private roads may be included within the lot area for purposes of determination of lot size within zoning districts.

PUBLIC ROAD. For the purpose of access to subdivision lots, a public road is one of the following:

- a. Utah State Highway 12;
- b. Class-C roads on the current map of Boulder Town roads;
- c. Platted, but unmaintained roads within Boulder Town;
- d. Forest Service roads;
- e. Any road that has been formally claimed as a public right-of-way by Boulder Town ordinance or resolution; and
- f. Any road that has been adjudicated to be a public road in accordance with UCA 72-5-104.

~~**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 *privately* for at least 20 years for private use; or¶~~
- ~~5. Continuously used *publicly* for at least 10 years for public use.¶~~

REVIEW CYCLE. The occurrence of:

1. the applicant's submittal of a complete subdivision application;
2. the Town's review of said subdivision application;
3. the Town's response to the subdivision application in accordance with Boulder Town Code; and
4. the applicant's reply to the Town's response that addresses each of the Town's required modifications or requests for additional information.

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.

STATE. The State of Utah, United States of America.

SUBDIVISION IMPROVEMENT PLANS. The civil engineering plans associated with required infrastructure required for a subdivision.

SUBDIVISION PLAN REVIEW. A review of the applicant's subdivision improvement plans and other aspects of the subdivision application to verify that the application complies with state law, Boulder Town Codes and applicable standards and specifications.

TOWN. The Town of Boulder, Garfield County, State of Utah, United States of America.

MAINTENANCE RESPONSIBILITY. The obligation and responsibility of keeping roads, ~~road,~~ or improvements in a condition that provides responsible use.

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152.004 AUTHORITY.

This ordinance is enacted under the authority of the State of Utah Municipal Land Use, Development, and Management Act [hereinafter “LUDMA”] (UCA 10-9a).

152.005 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 “Town”).

152.006 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.

152.007 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.

152.008 FEES.

Appropriate fees shall be charged for land use applications, plan reviews, engineering services, variance or appeal requests, or any other service required by this ordinance. ~~Such fees shall be established via resolution by the Boulder Town Council.~~ Applicants are required to reimburse the Town for the costs of processing subdivision applications.

- (A) Fees for subdivision applications, plan reviews, approvals, and appeals shall be set by Town Council resolution.
- (B) The applicant shall pay all additional costs incurred by the Town for the provision of services provided by a Professional Engineer, Surveyor, or other consultant hired by the ALUA and necessary to review the subdivision application materials for conformity to the requirements of this chapter and accepted engineering standards and practice. The applicant shall be notified of the intent to hire consultants and shall have the option to amend or withdraw the application prior to any consultant work.

152.009 PENALTIES. ATTORNEY TO REVIEW/EDIT

Any civil offense against this ordinance shall be an infraction, which shall be punishable in accordance with Utah law.

152.010 APPEALS. ATTORNEY TO REVIEW/EDIT

Pursuant to Utah law, no person shall challenge in district court, the Administrative Land Use Authority’s decisions made consistent with Utah law and this ordinance, until said person has exhausted all administrative remedies as provided in Boulder Town Code.

152.011 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.

152.012 SITE PREPARATION WORK PROHIBITED.

No excavation, grading, or other improvement related to the development of the subdivision shall take place on any land within the 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.

~~152.013 BUILDING PERMITS.~~ **Boulder Town does not issue building permits and any references to this should be moved to section 151. ¶**

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

ADMINISTRATIVE LAND USE AUTHORITY

152.014 ESTABLISHMENT.

This section hereby establishes the Boulder Town Administrative Land Use Authority.

152.015 APPOINTMENT.

The ALUA shall consist of 3 members ~~formally recommended by the Planning Commission and~~ appointed by the Town Council and shall include the Zoning Administrator, a Planning Commission member (~~recommended by the Planning Commission~~), and a consultant appointed by the Town. Additional firms or individuals may be consulted as needed to assess specific engineering conditions.

152.016 TERMS – REMOVAL FOR CAUSE.

~~ALUA members shall serve two-year terms and may be re-appointed by the Town Council. The term limits for the members of the ALUA shall be as follows:~~

BOULDER TOWN ADMINISTRATIVE LAND USE AUTHORITY TERM LIMITS	
Zoning Administrator	No limit as long as employed by the Town
Town Planning Commission Member	2 years, PC members rotate
Land Use/Engineering Consultant	2 years, may serve multiple terms

Any member may be removed from their position for cause by the Town Council, including, failure to attend or participate in ALUA meetings, imposing requirements inconsistent with this ordinance and state law, or committing any act inimical to public service.

152.017 COMPENSATION.

Members of the ALUA shall be compensated at an ~~hourly rate fixed amount agreed upon by the member(s) and established by~~ the Town Council. ~~The costs derived from the review and decision of the ALUA shall be covered by the subdivision application fee(s) and shall be the responsibility of the applicant, not the Town.~~

152.018 DUTIES AND POWERS.

The ALUA shall consider land use applications arising from subdivision applications within the incorporated areas of Boulder Town in accordance with this ordinance and UCA 10-9a-604.1, 3(a)(b).

DESIGN STANDARDS

~~152.019 NATURAL CONDITIONS.~~ ¶

~~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.~~ ¶

152.020 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 Code.
2. All lots shall have legal access indicated on the plat.
3. Legal access may be provided by having frontage on a public road or a private road on a recorded easement extending from each lot to a public road.
4. The requirements for an easement for lot access by a private road are as follows:
 - a. the easement documents must be recorded, cited on the plat, and run with the land.
 - b. The easement must be least 40 feet in width
 - c. The easement shall allow installation of utilities adjacent to the driving surface
 - d The easement shall allow construction and future maintenance as needed to meet the town Boulder Town Infrastructure Design Standards and the Wildland Urban Interface Code fire access standards.¶
5. No single lot shall be divided by a Boulder Town and Garfield County boundary line.
6. Lots on a cul-de-sac shall have a minimum 430' width at the front property line.

152.021 ENGINEERING AND INFRASTRUCTURE STANDARDS.

1. Subdivision design and construction shall comply with the current edition of the Boulder Town ~~Engineering and Infrastructure~~ Design Standards which are adopted by reference.
2. The Boulder Town ~~Engineering and Infrastructure~~ Design Standards may be supplemented or amended by Town Council resolution.

3. Alternative infrastructure designs complying with nationally recognized codes or standards and prepared by a licensed professional engineer may be administratively approved by the ALUA as complying with the intent of this section.

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IMPROVEMENT STANDARDS

152.022 ROAD IMPROVEMENTS.

A. **Minimum Standards.** Roads shall be designed and built to the Boulder Town ~~Engineering and Infrastructure~~ **Design** Standards specifications ~~(see EXHIBIT 1)~~ and the Wildland Urban Interface Code. 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.

B. ~~Lot Frontage.~~ ~~An application to subdivide lands shall not be considered unless all proposed lots and other areas to be subdivided have adequate frontage, either by minimum widths or appropriate accesses as required by this ordinance and the zoning ordinance. All lots in a proposed subdivision shall be accessed on a private or public road improved to the minimum standards of this ordinance.~~

C. ~~Rights of Way.~~ ~~Boulder Town roadways shall have the following minimum right of way widths:~~

Road Type	Minimum Width
Major Collector (UDOT ROW)	100 feet
Minor Collector (Town ROW)	50 feet
Collector Road	50 feet
Major Road	50 feet
Minor or Frontage Road	50 feet
Private Road	40 feet

D. ~~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.~~

E. ~~Flag Lots.~~ Flag lots in any subdivision may be permitted by the ALUA. Whenever feasible, lots shall meet the minimum width and frontage requirements of this ordinance and the zoning ordinance.

- F. **Road Maintenance.** All roads proposed to be created shall identify a permanent method of road maintenance that meets the requirements for public safety as outlined in the Boulder Town Infrastructure Design Standards. A road may remain in private ownership as a “private road” or be dedicated to the Town as a “public road.” Acceptance of dedication of a proposed road is at the discretion of the Town Council. If a ~~the proposed~~ road is not proposed for dedication to the town, or if the Town is unwilling to accept dedication, an appropriate method for long-term maintenance **must be established and included in the Subdivision application.** A road maintenance agreement, as described in the Boulder Town Infrastructure Design Standards, is an appropriate method. Such an Agreement must include space for the signatures of all owners of lots that use the road or expect to use the road in the future to access their lots from the point of access from a public road. This agreement must accompany the subdivision application and be recorded with the plat when the subdivision is finalized and disclosed to future buyers. ~~must be proposed, for approval by the Town Council. Acceptance of dedication of a proposed road is at the full discretion of the Town Council.~~

152.023 ~~POTABLE DRINKING WATER.~~

A. **POTABLE DRINKING WATER**

- 1) **Supply.** All subdivisions shall have a permanent supply of potable water available to each lot in the subdivision. Hauling water to any lot in a subdivision as the primary source 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 for the dwelling unit and shall have written approval from the Utah Division of Water Rights for domestic use and/or a binding contract from a public water company regulated by the State of Utah.
- 4) **Documentation.** The subdivision application shall include a copy of the approved water company agreement to supply the lot or the approval from the Utah Division of Water Rights for groundwater. Well drilling and construction of water pipelines is not necessary before subdivision.

B. **LANDSCAPING/IRRIGATION WATER**

If additional water use from a well 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.

- A. **System.** All subdivisions shall have a feasible wastewater disposal system available to each lot in the subdivision.

- B. **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.

~~All subdivisions shall meet the most current International Fire Code standards for fire flow.¶~~

- ~~A. All new subdivision lots shall be within 600 feet of a fire hydrant connected to a water supply meeting applicable fire code requirements.~~
- ~~B. The fire authority may allow alternative fire-flow and storage where exceptions in nationally recognized fire codes are applicable and as approved by an engineer. Economic hardship shall not be considered in determining fire protection requirements in new subdivisions.~~
- ~~C. The distance requirement in (A) may be waived in the case of subdivisions creating only one new lot.~~

152.026 STORM DRAINAGE.

- A. **Requirements.** A stormwater drainage system shall be provided and shall be separate and independent of the wastewater disposal system **for all subdivisions creating more than one lot.** The final plans for the drainage system shall be prepared by a licensed engineer or surveyor and approved by the Town prior to any site work or issuance of any building permits in the subdivision.
- B. **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.
- C. **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 building lots in any proposed subdivision shall have sufficient area for the location of a dwelling entirely outside the **estimated** flood plain, and where all setback requirements of the zoning district in which the subdivision is located, can be met.

152.028 OTHER UTILITIES.

Installation of utilities shall be provided through underground service in properly recorded easements or rights of way. The Town encourages existing overhead power lines within a proposed subdivision be relocated underground whenever feasible.

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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 ALUA, 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 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 8 days from the date of request by the Town. A letter of final inspection shall be written within 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 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 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 1-year time period unless extended by the Town for 1 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 Town, or other assigned firm by the Town, a request for payment against the letter of credit, showing to whom and for what amount the release is requested. Upon inspection by the Town, and approval of the requested amount, the Town 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 road 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, etc., if bonded by the developer.
2. Requests shall not be submitted more frequently than on a monthly basis. A minimum of 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, 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 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 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 subdivision applications are not required pursuant to UCA 10-9a-604.1, 4(a)(b). However, the Town strongly encourages a conceptual plan review meeting be scheduled by the applicant with the Town to provide recommendations and educate the applicant on the requirements of this section. If an 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.

At the pre-application meeting, Town staff shall provide or have available on the Town website the following:

1. copies of applicable land use regulations;
2. a complete list of standards required for the project;
3. preliminary and final application checklists; and
4. feedback on the concept plan.

At the pre-application meeting, the applicant shall provide the following:

1. copies or sketches of preliminary plat drafts;
2. location of proposed subdivision;
3. total number of lots proposed;
4. minimum area of proposed lots;
5. proposed roadway layouts; and
6. proof of legal access to the subdivision

152.038 PRELIMINARY PLAT

Submission. Preliminary subdivision applications shall be found on the Town's official website and/or the Town Office and shall be officially submitted to the Town. Applications shall only be deemed complete once all requirements of this section (~~see EXHIBIT 2~~) have been met.

Notice. Applicant will provide mailing addresses and other contact information for all property owners adjoining the proposed subdivision. The Town will provide notice to adjacent owners at the time when the preliminary subdivision application is filed seeking clarification on existing easements or property rights.

Review of Preliminary Plat. The ALUA shall review the preliminary plat application at staff level within 30 business days of submission of a complete preliminary application.

- A. In reviewing the preliminary subdivision application, the ALUA may require:

- 1) additional information relating to an applicant's plans to ensure compliance with Boulder Town Code and approved standards and specifications for construction of public improvements; and
- 2) modifications to plans that do not meet current codes, applicable standards or specifications, or do not contain complete information.

B. The ALUA's request for additional information or modifications to plans under Subsection 1(a) or (b) shall be specific and include citations to all Town codes, standards, or specifications that require the modifications to plans, and shall be logged in an index of requested modifications or additions.

Preliminary Plat Decision. After the ALUA has reviewed the preliminary plat, the applicant shall be advised of any required changes and/or additions. The ALUA shall provide written notice to the applicant with the date of approval, required modifications, or denial and the justification for the decision.

Effective Period. The approval of a preliminary plat shall be effective for a period of 90 calendar days. If the final application is not submitted within the required timeframe, the preliminary application shall be null and void and the applicant shall be required to submit a new preliminary subdivision application for review and consideration by the ALUA.

Extensions. The applicant may request time extensions for the expiration of a preliminary plat approval by submitting a request in writing to the ALUA prior to original expiration date. The ALUA shall review requests for extensions and may only consider the request when the applicant is able to demonstrate no change in circumstance, including physical changes to the property or surroundings, that would result in an unmitigated impact or that would result in a finding of non-compliance with the general plan, zoning ordinance, or this ordinance in effect at the time of the extension request.

152.039 CONCURRENT PROCESSING.

If the preliminary plat application is approved by the ALUA without modifications, it shall be considered the final plat.

152.04039 FINAL PLAT

If the preliminary application requires modifications and/or the installation of infrastructure improvements, said modifications and/or improvements shall be made prior to review and consideration of the final plat by the ALUA.

Review of Final Plat. The ALUA shall review the final plat application at staff level within 40 business days of submission of a complete final application.

1. In reviewing the final subdivision application, the ALUA may require:

- a. additional information relating to an applicant's plans to ensure compliance with Town Codes and approved standards and specifications for construction of public improvements; and
 - b. modifications to plans that do not meet current ordinances, applicable standards or specifications, or do not contain complete information.
2. The ALUA's request for additional information or modifications to plans under Subsection 1(a) or (b) shall be specific and include citations to all Town codes, standards, or specifications that require the modifications to plans.
3. If an applicant makes a material change to a plan set, the ALUA has the discretion to restart the review process at the 1st review of the final application, but only with respect to the portion of the plan set that the material change substantively effects.
4. If an applicant does not submit a revised plan within 20 business days after the ALUA requires a modification or correction, the ALUA shall have an additional 20 business days to respond to the plans.
5. After the applicant has responded to the final review cycle, and the applicant has complied with each modification requested in the ALUA's previous review cycle, the ALUA may not require additional revisions if the applicant has not materially changed the plan, other than changes that were in response to requested modifications or corrections.
 - a. In addition to revised plans, an applicant shall provide a written explanation in response to the ALUA's review comments, identifying and explaining the applicant's revisions and reasons for declining to make revisions, if any.
 - b. The applicant's written explanation shall be comprehensive and specific, including citations to applicable standards and ordinances for the design and an index of requested revisions or additions for each required correction.
 - c. If an applicant fails to address a review comment in the response, the review cycle is not complete and the subsequent review cycle by the ALUA may not begin until all comments are addressed.
6. If, on the 4th or final review, the ALUA fails to respond within 20 business days, the property owner may request that the ALUA assemble an appeal panel in accordance with UCA 10-9a-508(5)(d) et seq to review and approve or deny the final revised application. The ALUA must do this within 10 days of receiving the request. The appeal panel shall function as follows:
 - a. Unless otherwise agreed by the applicant and the municipality, the panel shall consist of the following three experts:
 - i. one licensed engineer, designated by the ALUA;
 - ii. one licensed engineer, designated by the land use applicant; and

- iii. one licensed engineer, agreed upon and designated by the two designated engineers as appointed in subsection (a) i and ii of this section.
 - b. A member of the panel assembled by the ALUA ~~under Subsection i~~ may not have an interest in the application that is the subject of the appeal.
 - c. The land use applicant shall pay:
 - i. 50% of the cost of the panel; and
 - ii. the ALUA's published appeal fee; ~~or~~
- 7. ~~F~~for a dispute arising from the subdivision ordinance review, **the ALUA may** advise the applicant, in writing, of the deficiency in the application and of the right to appeal the determination to a designated appeal authority.

Final Plat Decision.

If the final plat complies with the requirements of UCA 10-9a-604.1, this ordinance, and the preliminary subdivision approval, the ALUA shall approve the final subdivision application.

Improvements.

If the ALUA elected not to require that all improvements be installed and/or dedicated prior to signing of the final subdivision plat, the amount of the guarantee, in compliance with the requirements of this ordinance, shall be established by the ALUA.

Final Plat Effective Period.

The approval of a final plat shall be effective for a period of 2 years. **If the required improvements are not installed and/or final plat is not recorded within the required timeframe,** the final application shall be null and void and the applicant shall be required to submit a new preliminary subdivision application for review and consideration by the ALUA.

Final Plat Extensions.

The applicant may request time extensions for the expiration of a final plat approval by submitting a request in writing to the ALUA prior to original expiration date. The ALUA shall review requests for extensions and may only consider the request when the applicant is able to demonstrate no change in circumstance, including physical changes to the property or surroundings, that would result in an unmitigated impact or that would result in a finding of non-compliance with the general plan, zoning ordinance, or this ordinance in effect at the time of the extension request.

152.0410 PHASE DEVELOPMENTS.

- 1. **The final platting of subdivisions may be done in phases. Each phase shall consist of a number of lots which can be completely developed with improvements within a period designated by the ALUA.**

2. The intent is that improvements be completed within a reasonable period of time designated by the ALUA. If little to no work has been done within said time period, and there are no immediate plans for substantial work to be completed, the ALUA shall rule the plat null and void by reason of inactivity.
3. When the improvements have been completed and approved by the ALUA, the applicant may submit the next phase of the proposed development in accordance with the provisions of this ordinance.
4. A final plat shall be accepted only upon the submission of qualified evidence indicating that the applicant has the financial ability to complete the proposed improvements for all lots within the phase to be submitted.

152.0421 RECORDING.

The final plat shall be recorded, by the applicant, at the office of the County Recorder within 2 years of final plat approval by the ALUA. The final subdivision plat shall only be recorded once the required improvements have been installed, approved by the Town, and all required signature blocks have been appropriately signed. If the final plat is not recorded 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 ALUA.

SUBDIVISION PLAT AND RECORD OF SURVEY REQUIREMENTS

152.0432 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. a title with a unique name not used anywhere else in Garfield County, State of Utah;
2. signature blocks for:
 - a. surveyor's certificate;
 - b. administrative land use authority's certificate;
 - c. mayor's certificate;
 - d. owner's certificate;
 - e. acknowledgement;
 - f. certificate of recording;

152.0443 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 distinguishing the amended plat from the original plat; and
 - a. (i.e., Boulder Town Subdivision, 2nd Amended, etc.)
2. signature blocks for:
 - a. surveyor's certificate;
 - b. administrative land use authority's certificate;
 - c. mayor's certificate;
 - d. owner's certificate;
 - e. acknowledgement;
 - f. certificate of recording;

152.0454 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. a title stating “Record of Survey for [the specific exempted subdivision]”;
 - a. (i.e., Minor Lot Subdivision, Agricultural Land Exemption, etc.)
2. signature blocks for:
 - a. surveyor’s certificate;
 - b. administrative land use authority’s certificate;
 - c. mayor’s certificate;

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EXEMPTIONS FROM PLAT REQUIREMENT

152.0465 MINOR-LOT SUBDIVISION. UCA 10-9a-605(1)

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

1. the original parcel proposing to be subdivided is not currently part of any subdivision previously approved by Boulder Town, and the application has been reviewed by the ALUA and qualifies as a minor-lot subdivision as set forth herein.
2. the original parcel is being subdivided into 2 total parcels that all front an existing public or private road with legal access;
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 applicant shall provide the following:
 - a. Potable drinking water supply shall not be required for minor-lot subdivisions. If the applicant desires such improvements, the following shall be required:
 - i. approved connections to an existing public or private culinary water system for each proposed parcel, if applicable; or
 - ii. 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; and
 - c. improvement plans for other utilities to be provide, if applicable.
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. evidence of recordable deeds for each proposed parcel in the minor-lot subdivision.
7. the record of survey shall be filed, and accompanied by appropriate deeds for each parcel to be recorded, at the office of the County Recorder within 60 calendar days of final approval by the ALUA. If the record of survey is not filed and appropriate deeds are not recorded within the required timeframe, the minor-lot subdivision approval shall be null and void and the applicant shall be required to submit a new preliminary subdivision application for review and consideration by the ALUA.

152.0467 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. the record of survey shall be filed, and accompanied by appropriate deeds for each parcel to be recorded, at the office of the County Recorder within 90 days of final approval by the ALUA. If the record of survey is not filed and appropriate deeds are not recorded within the required timeframe, the agricultural land exemption approval shall be null and void and the applicant shall be required to submit a new preliminary subdivision application for review and consideration by the ALUA.

152.0478 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 ALUA 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 ALUA.

152.0498 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.

152.05049 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.

152.0501 SUBDIVISION AMENDMENT. UCA 10-9a-608

The ALUA may consider an owner's petition for a subdivision amendment if:

1. the petition seeks to:
 - a. join 2 or more of the petitioning fee owner's contiguous lots;
 - b. subdivide one or more of the petitioning fee owner's lots, if the **proposed** subdivision **amendment** 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. **adjust an internal lot restriction imposed by the Town** 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.

152.0512 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 ALUA prior to recording of deeds.

LOT SIZE AVERAGING – OPEN SPACE

152.0523 LOT SIZE AVERAGING – OPEN SPACE

Subdivision applications may propose the division of a lot or parcel in ways that will result in smaller, more affordable lots while preserving open space and agricultural land. Lots created with this approach may be smaller than Minimum Lot Sizes defined under Boulder Town Zoning Code and shown in Section §153.118, the Table of Development Standards.

1. The averaging calculation established below will be based on the lot or parcel boundary in place when the Preliminary Subdivision Application is filed. **Original plat maps must be filed with the Preliminary Application.**
2. The lot size averaging calculation shall be made as follows:
 - a. The maximum number of building lots allowed on a lot or parcel shall be based on the total acreage of the lot or parcel as it exists at the time of the Preliminary Application divided by the Minimum Lot Size allowed in that zone as shown in the Table of Development Standards (§153.118) and rounded down to a whole number.
 - b. The minimum building lot size allowed shall be determined by the **Table of Development Standards (§153.118)**. Building lots created may vary in size, but all must be larger than 1 acre.
 - c. A Subdivision may be proposed on a subarea of the parcel, with the lots within the Subdivision counting towards the maximum number of building lots on the original parcel.
3. All lots on the parcel do not have to be created at the same time. Phased development of a parcel is allowed. Building lots created initially and in any subsequent subdivision application will in total not exceed the maximum calculated in §152.052 (2) (a) above.
4. Areas indicated separately on the plat as rights-of-way, common areas, agricultural areas or open space and clearly demarked and recorded as such and as non-buildable on the plat, do not count towards the total number of building lots allowed on the parcel. **Areas designated as such shall be permanently restricted from any future development by a plat note, conservation easement, deed restriction, or other method of long-term protection and preservation acceptable to the Town Council. Open space protection and preservation methods shall be approved by the Town Council and recorded concurrent with the recording of the final subdivision plat.**
5. When an entire lot or parcel is developed as a subdivision using the lot size averaging option, plats recorded in the subdivision shall note that "The lot size averaging provisions of the Boulder Town Subdivision and Zoning Codes as of (insert date of record) were applied in creating the (insert name) Subdivision. Further subdivision is not allowed.

6. When a subdivision occurs on part of a parcel, with a possibility of future subdivision on that same parcel, the lot(s) remaining outside of the initial subdivision shall require the recording of notes on the plat indicating the maximum number of lots that may be developed on the remaining lot/parcel based on the initial lot size averaging calculation defined in §152.052 (2) (a) above.

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~~EXHIBIT 1 BOULDER TOWN ENGINEERING AND INFRASTRUCTURE
STANDARDS¶~~

Suggest that these exhibits not be included in the ordinance – but referenced to the Town website

~~6 EXHIBIT 2 BOULDER TOWN SUBDIVISION CHECKLIST~~

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