

November 22, 2024

To: Mayor Drain and Boulder Town Council

cc: Jessica LeFevre, Town Clerk

From: Boulder Town Planning Commission

Subject: Revised Recommendation to adopt Zoning Ordinance 2024-B (draft 111424)

In the process of reviewing and rewriting the Boulder Town Chapter 152: Subdivision Code and Chapter 151: Building Code, the Planning Commission noted that some revisions were needed in Chapter 153: Zoning Code. The Zoning Code changes included herein are the result of the Commission's discussions. The changes in Zoning are needed to eliminate inconsistencies and redundancies within the new Subdivision Code and Building Code. The Commission voted unanimously to support these changes in the Zoning Code but recognizes that additional work is needed in this code. We anticipate that work being done next year after we update the General Plan. We are happy to address any questions you may have. Thank you for your consideration of our recommendations.

**ORDINANCE 2024-B
BOULDER TOWN, UTAH**

AN ORDINANCE TO CHANGE THE BOULDER TOWN ZONING CODE (CHAPTER 153) TO ALIGN WITH RECENT CHANGES IN THE BOULDER TOWN SUBDIVISION CODE (CHAPTER 152) AND BOULDER TOWN BUILDING CODE (CHAPTER 151)

Whereas Boulder Town is adopting changes in its Subdivision Code to comply with State mandated changes; and

Whereas such changes in the Subdivision Code have created inconsistencies in the Boulder Town Zoning Code; and

Whereas Boulder Town is adopting changes in its Building Code and incorporating sections currently found in its Zoning Code; and

Whereas after review and public input, the following changes are deemed necessary in the Zoning Code to avoid inconsistencies and redundancies in Boulder Town Codes:

NOW, THEREFORE, BE IT ORDAINED BY THE BOULDER TOWN COUNCIL THAT THE BOULDER TOWN ORDINANCES BE AMENDED AS FOLLOWS:

AMENDMENTS TO CHAPTER 153

SECTION 153.011 DEFINITIONS

ADD the following definition:

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

REPEAL the following definitions:

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

~~**Lot Line Adjustment.** A lot line adjustment occurs when the owners of adjoining lots within a recorded subdivision agree to change lot lines or when the owner of a lot within a subdivision agrees with the owner of an adjoining parcel to change boundaries between the lot and the parcel. A lot line adjustment cannot create a new parcel or lot. It can be used to~~

~~change the boundary between a right-of-way and adjoining lots. For the regulation of lot line adjustments, please see § 152.116.~~

~~**Parcel.** A parcel is any area of land that is not a lot. In the administration of this Code, there are no lots outside of recorded subdivisions, there are no parcels within recorded subdivisions.~~

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

~~**Subdivision.** Any land that is divided, re-subdivided or proposed to be divided into two or more lots, plots, parcels, sites, units or other division of land for the purpose, whether immediate or future, for offer, sale, lease or development either on the installment plan or upon any and all other plans, terms and conditions. Subdivision includes the division or development of land whether by deed, metes and bounds description, devise and testacy, lease, map, plat, or other recorded instrument. Subdivision does not include a bona fide division of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates this code or a parcel boundary adjustment as defined by § 152.006(C) of this code.~~

REPEAL AND REPLACE the following definitions:

~~**REPEAL:** **DRIVEWAY.** A private roadway, the use of which is limited to persons residing, employed or otherwise using or visiting the parcel on which the driveway is located.~~

~~**REPLACE WITH:** **DRIVEWAY.** A privately owned access route serving a single lot.~~

~~**REPEAL:** **IMPROVEMENTS.** Street grading, street surfacing and paving, water mains and lines, water meters, fire hydrants, sanitary sewers, storm drainage facilities, culverts, bridges, public utilities or other such installations designated by the Planning Commission or Town Council.~~

~~**REPLACE WITH:** **IMPROVEMENTS.** Street grading, street surfacing and paving, water mains and lines, water meters, fire hydrants, wastewater systems, storm drainage facilities, culverts, bridges, public utilities, or other such installations designated by the Town Council.~~

REPEAL: ~~RIGHT-OF-WAY.~~ ~~Rights-of-Way are separately owned, generally linear areas of land that provide circulation, irrigation, or utility service to adjoining lots or parcels.~~

REPLACE WITH: *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.

MODIFY: *BUILDING LOT.* ~~For the purposes of lot size averaging, a building lot is any~~ Any lot that is not separately demarked for common use or open space protection and which is, thus, available for any principal use permitted in the applicable zoning district. ~~Building lots must meet the applicable average and minimum lot size established in the Table of Development Standards (Section 153.118).~~

MODIFY: *AVERAGE LOT SIZE.* ~~The average of the sizes of lots within a subdivision. This is calculated by dividing the total area of the parcel or lot being divided by the total number of building lots proposed. Lots that are separately demarked for common use or open space protection are not building lots, nor are rights-of-way, public or private. Lot size averaging may be applied to a lot or parcel only as it existed on the date lot size averaging was adopted into this Code. While not all lots need to be created at the same time, the basis for lot size averaging shall be the lot or parcel size that existed on the date this definition was adopted.~~

REPEAL SECTION 153.042 (A) (6) and RENUMBER THE REMAINING 5 DUTIES

§ 153.042 BOULDER TOWN PLANNING COMMISSION.

(A) Powers and duties. The Commission shall be an advisory body to the Council on legislative matters, including the General Plan and land use ordinances. The Commission shall: ~~—(6) Review and recommend approval, approval with requirements or denial of all subdivision applications to the Council, as authorized by Ch. 152 of this code of ordinances;~~

ADD SECTION 153.044 (B) (6)

§ 153.044 ZONING ADMINISTRATOR

(A) General. The Council may designate a person to carry out the administrative responsibilities of this chapter and Ch. 152 of this code of ordinances. The person so designated is referred to herein as the “Zoning Administrator.”

(B) Powers and duties. The Zoning Administrator shall:

- 1) Ensure all procedures and provisions of the town’s land use ordinances, including this chapter, are consistently and equitably applied;

- 2) Approve, approve with requirements or deny the following applications:
 - a. All temporary use applications; and
 - b. All permitted use applications.
- 3) Render interpretations of the text of this chapter, as provided herein;
- 4) Render determinations of a zoning district boundary application, as provided herein;
- 5) Carry out all other functions, duties and actions as may be necessary to administer this chapter and as may be identified herein; and
- 6) As appointed by the Town Council, serve as the Administrative Land Use Authority for review of Subdivision Applications.

ADD A NEW SECTION 153.045 and RENUMBER THE FOLLOWING SECTIONS UP TO AND INCLUDING 153.156:

§153.045 ADMINISTRATIVE LAND USE AUTHORITY

As outlined in the Boulder Town Subdivision Code §152.100, subdivision applications and decisions shall be made by the Administrative Land Use Authority appointed by the Boulder Town Council.

ADD A NEW SECTION (C) TO 153.049 (newly numbered)

§153.049 COMPUTATION OF TIME.

- (A) Unless specifically provided by the requirements of this chapter as otherwise, all times identified herein shall be computed using calendar days; except that, if the last day is a Saturday, Sunday or legal holiday, that day shall be excluded and time computed to the next regular business day following the Saturday, Sunday or legal holiday.
- (B) The time within which an act is to be done shall be computed by excluding the first day and including the last day.
- (C) For actions related to subdivision applications, review, and decisions as outlined in Chapter 152, time requirements are measured in business days.

MODIFY SECTION 153.118 AS FOLLOWS TO INCLUDE LOT-SIZE AVERAGING IN THE MDR ZONE:

§ 153.118 TABLE OF DEVELOPMENT STANDARDS.

The standards adopted in this table apply to all lots, parcels, buildings, structures, and uses unless they are specifically exempted by other requirements of this Code.

Development Standards	Zoning Districts				
	GMU	LDR	MDR	HDR	C
Density Standards {see note}					
Minimum Lot Size without Averaging	5 acres	5 acres	2.5 acres	1 acre	Averaging not permitted
Average Building Lot Size	5 acres	5 acres	2.5 acres		
Minimum Building Lot Size, Well	1 acre	1 acre	1 acre		
Minimum Building Lot Size, Central	1 acre	1 acre	1 acre		
Water					
These minimum building lot sizes for the GMU, and LDR, and MDR may be used ONLY when lot size averaging is used.					
Maximum Lot Coverage	20%	20%	30%	40%	
Dimensional Standards, Principal Buildings					
Maximum Building Height	30 ft				
Minimum Front Setback	30 ft.				see note
Minimum Rear Setback	30 ft.				
Minimum Side Setback	10 ft.				
Dimensional Standards, Accessory Buildings					
Maximum Building Size	1000 SF				see note
Maximum Building Height	30 ft				
Minimum Front Setback	30 ft.				see note
Minimum Rear Setback	30 ft.				
Minimum Side Setback	10 ft				

Note: With the exception of the maximum building height, the dimensions of commercial development will usually be controlled by the need to comply with the standards of §153.415 or § 153.430. Where compliance with

those standards does not result in a larger setback or a lower lot coverage, commercial uses must comply with the standards established here for the LDR.

MODIFY SECTION 153.119 AS FOLLOWS:

§153.119 LOT SIZE AVERAGING.

This Code allows lot size averaging in new subdivisions or re-subdivisions in the GMU, ~~and~~ LDR, ~~and~~ MDR zoning districts to help implement the Town’s general plan, maintain open space and agricultural land, and offer flexibility to landowners.

- (A) The applicant may use the average lot size listed in the Table of Development Standards adopted in §153.118 above as a uniform minimum lot size, or
- (B) The applicant may propose any combination of lot sizes that are larger than the applicable minimum lot size established by that Table and result in an average lot size no smaller than that required by the Table.
- (C) ~~The calculation basis for the lot size average calculation~~ determining the number of building lots allowed shall be the total area of the parcel or lot ~~being divided~~ as of ~~January 4, 2024~~ the date of application for a lot-size averaging subdivision divided by the minimum acreage for a lot in that zoning district as shown in §153.118. ~~using these lot-size averaging provisions on the date this section, §153.119, was adopted into the Boulder Town Code of Ordinances and the proposed number of building lots, not including Areas separately demarked for common use or open space protection, agriculture, or rights-of-way, public or private~~ are not considered building lots and will be noted as reserved and non-buildable when plats are recorded.
- (D) All lots must comply with all requirements of this Chapter and with the Subdivision Code.
- (E) Plats filed with the County Recorder will note that lot-size-averaging was used to create the lots as outlined in the Boulder Town Subdivision Code §152.601.
- (F) ~~The ALUA PC must find that the~~ will consider whether the proposed lot layout is respectful of and compatible with the: (1) terrain, avoiding natural hazards while preserving agricultural opportunities, riparian areas and wetlands, views, and other natural assets; (2) safe and adequate access to each lot; and (3) neighboring uses.

REPEAL SECTIONS 153.215-153.221 (incorporated into Chapter 151)

BUILDING CODES AND PERMITS

§ 153.215 PURPOSE.

~~—The adoption and enforcement of building codes for all construction and uses located within the municipal boundaries of the town, as adopted by the town, serves the public interest by~~

providing for structural stability, fire resistance, adequate ventilation and other safety and sanitary features.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1101)

§ 153.216 BUILDING PERMIT REQUIRED:

~~—(A) Construction of any building, or any part thereof, shall not be commenced until:~~

~~—(1) A project permit has been signed by the Zoning Administrator and issued by the town certifying compliance with the ordinances and, excepting where said project is deemed exempt by the Zoning Administrator under § 153.220; or~~

~~—(2) A building permit is obtained from the Garfield County Building Department in compliance with the International Building Code (IBC) and all other health, building, and construction codes adopted by the state.~~

~~—(B) (1) Applicants for a building permit shall submit building plans and a site plan complying with the requirements of the International Building Code (IBC), all other codes and this chapter prior to obtaining issuance of a building permit.~~

~~—(2) The applicant for a building permit shall proceed only in accordance with the approved building permit.~~

~~—(C) Prior to issuance of a building permit, the applicant may be required to post a bond or provide other financial security in such form and sum as required by the Zoning Administrator, and approved by the Town Attorney, with sufficient surety running to the town to offset any costs or expenses associated with construction activities on and off the site.~~

~~—(D) For any construction exempt from the requirement for a building permit, as allowed by state law or this chapter, the Zoning Administrator shall issue a project permit and may require the submission of information and materials that may be necessary to ensure compliance with the provisions of this chapter and state law.~~

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1102; Ord. 2020-1, passed 3-5-2020)

§ 153.217 BUILDING CODE COMPLIANCE:

~~—All structures requiring a building permit shall comply with the requirements of all building codes, as adopted by the town.~~

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1103)

§ 153.218 ISSUANCE OF BUILDING PERMITS PRIOR TO COMPLETION AND ACCEPTANCE OF REQUIRED IMPROVEMENTS:

~~—(A) Building permits may be issued prior to the completion and acceptance by the town of the required public improvements; provided, however, no building permit may be issued until adequate financial assurances have been provided for completion of such improvements, as approved by the Town Council and Town Attorney.~~

~~—(B) In such cases, the Building Official shall require the applicant for a building permit to sign a statement indicating the following:~~

~~—(1) The applicant is aware of the terms of the bond or escrow account established to guarantee completion of required improvements to the satisfaction of the town;~~

~~—(2) The applicant releases the town from all liability for the installation, maintenance, or repair of the required improvements until the same have been completed and accepted by the town; and~~

~~—(3) The applicant assumes all risk in connection with construction on the subject property.~~

~~(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1104)~~

~~§ 153.219 CERTIFICATES OF OCCUPANCY.~~

~~—(A) A certificate of occupancy shall be required before any structure or premises, or part thereof, may be used or occupied, unless waived by the Zoning Administrator as part of a completed project permit.~~

~~—(B) No certificate of occupancy shall be issued permitting the use or occupation of any such structure or premises unless and until:~~

~~—(1) If a building permit is required, all construction has been completed, as authorized;~~

~~—(2) If no building permit is required, the use conforms to this chapter and all other applicable statutes, ordinances and regulations; and~~

~~—(3) Payment of all applicable fees, charges and other requirements have been made and all conditions for the establishment of the use or structure have been met.~~

~~(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1105; Ord. 2020-1, passed 3-5-2020)~~

~~§ 153.220 EXEMPTIONS.~~

~~—The following properties, uses and structures shall, to the extent provided by law, be exempt from the provisions of this chapter requiring a building permit, however, said exempt structures and improvements shall nonetheless first obtain a project permit from the town as required in § 153.215. No structure shall be exempt hereunder that is a dwelling intended for human habitation. The building permit exemptions are:~~

~~—(A) Properties owned and operated by the state or the federal government. Where state or federal law requires that the agency take steps to comply with all applicable local regulations, this exemption shall not be construed to abrogate that requirement;~~

~~—(B) Agricultural buildings to the extent exempted by the provisions of UCA § 58-56-4 and the town ordinances, that do not require electrical, plumbing, septic or mechanical systems;~~

~~—(C) Structures of 200 square feet or less that do not require electrical, plumbing, septic or mechanical systems (Examples are coops, storage sheds, playhouses, and similar uses and structures);~~

~~—(D) Temporary structures such as hoop houses (greenhouses), metal storage containers, yurts and similar structures not requiring permanent foundations or support structures, electrical, plumbing, septic or mechanical systems; and~~

~~—(E) Remodels that do not require alterations to support structures, electrical, plumbing, septic or mechanical systems.~~

~~(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1106; Ord. 2020-1, passed 3-5-2020)~~

§ 153.221 VIOLATIONS:

~~—(A) Violation of this subchapter, including providing false information on an application for a project permit or a building permit, is a Class C misdemeanor punishable by a fine and/or civil penalties as authorized by UCA § 10-9a-803.~~

~~—(B) Subsequently changing the use of an exempt structure to accommodate human habitation without first complying with this chapter, by the applicant or any subsequent occupant of the property or structure, is a Class C misdemeanor as specified above.~~

~~(Ord. 2020-1, passed 3-5-2020)~~

APPROVED and PASSED by the Boulder Town Council, State of Utah, on this _____ day of _____, 2024.

ATTEST:

Boulder Town Clerk _____

Boulder Town Mayor _____

VOTE:

Judy Drain, Mayor _____

Josh Ellis, Councilmember _____

Ray Gardner, Councilmember _____

Gladys LeFevre, Councilmember _____

John Veranth, Councilmember _____