

December 17, 2024

To: Mayor Drain and Boulder Town Council

cc: Jessica LeFevre, Town Clerk

From: Council Member John Veranth

Subject: Updated Zoning Ordinance 2024-B (draft 121524)

Attached is an updated version of the draft ordinance that incorporates the motions made at the December 5 Town Council meeting. I based this cleaned up version on the November 22 draft including all online edits through 12/12. I also carefully reviewed the current codified Chapter 153 which is current through Ordinance 2024, but not Ordinance 2024-2, (RV).

The following additional changes resulted from problems discovered during the clean-up editing. These changes are highlighted in the document below.

- 1) Average lot size definition contradicted 153.119 (C).
- 2) Deleted definition of improvements because this word is used only in other definitions and in deleted sections of Chapter 153.
- 3) Made definition of "building lot" identical in Chapters 152 and 153 and moved text to 153.119 to clarify the scope of the calculation..
- 4) Table of Development Standards 153.118:

The notes have been reformatted for readability and edited for clarity while retaining the intent.

Added "without averaging" and "with averaging" to the first column for clarity.

- 5) Section 153.119 (A) and (B) reworded because deleted language was confusing. There is no change to the intent.

- 6) Noted that a long "Development Permits" section also deals with building permits but recommend not fixing this duplication at this time.

**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 to the alphabetized list :

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:

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.~~

~~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.~~

~~**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: -BUILDING LOT. For the purposes of lot size averaging, a BUILDING LOT is 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.~~

REPLACE: **BUILDING LOT.** 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.

~~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: **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.

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 <u>with Averaging</u> , Well	1 acre ¹	1 acre (note 1)	1 acre ¹		
Minimum Building Lot Size <u>with Averaging</u> , Central Water.	1 acre	1 acre	1 acre		
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 3
Minimum Rear Setback	30 ft.				
Minimum Side Setback	10 ft.				
Dimensional Standards: Accessory Buildings					
Maximum Building Height	30 ft				
Minimum Front Setback	30 ft.				see note 2
Minimum Rear Setback	10 ft for standard construction methods, otherwise per IBC (see note 3).				
Minimum Side Setback	10 ft for standard construction methods, otherwise per IBC (see note 3).				

1) To achieve this small lot size with a well, special attention must be paid to placement of the well and septic to meet separation distances requirements found in Utah Admin. Code R317-4-1.

2) 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.

3) Smaller fire separation distances are possible when using non-combustible materials/fire-rated assemblies as described in IBC Section 705 (e.g., less than 10 feet from the lot line can use non-combustible material or a concrete masonry block wall without any windows facing the property line).

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 minimum lot size without averaging 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 where all building lots are equal to or larger than the minimum lot size with averaging listed in Table 153.118 and where the total number of building lots does not exceed the ultimate number calculated in 153.119 (C). ~~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 for determining the ultimate number of building lots allowed shall be the total area of the parcel or lot being subdivided as of the date of the final application for a lot averaging subdivision divided by the minimum lot size without averaging in that zoning district as shown in §153.118. Separately demarked areas indicated on the plat as non-buildable and reserved for a right-of-way, agriculture, common area, open space or similar use are not counted as building lots.

(D) Lot size averaging may be used when creating one-lot subdivisions in accordance with the exemptions §152.204.

(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.

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 _____