TOWN OF BOULDER, UTAH PUBLIC NOTICE

Governing Body:	PLANNING COMMISSION
Notice Type:	Regular Meeting
Date and Time:	Tuesday, October 20, 2026, at 7 p.m.
Location:	Boulder Community Center, 351 North 100 East, Boulder, Utah

In accordance with the Utah Open and Public Meetings Act, Utah Code § 52-4-202, this Agenda and Notice is hereby provided.

Meeting materials are available for public review on the Utah Public Notice website, provided in PDF format, and may also be accessed via the following link:
_BT-2026_MATERIALS_20261020_AgendaMeetingRegular_PC_DRAFT_V1.0…

AGENDA

I. OPENING PROCEDURES

1.1. Call to Order
1.2. Roll Call and Determination of Quorum
1.3. Pledge of Allegiance
1.4. Adoption of Agenda (Action Item - Motion Required)
1.5. Declaration of Conflicts of Interest (Information)

II. PRESENTATIONS AND REPORTS (Information/Discussion)

2.1. Presentation on Process for Town Council-Planning Commission Communications and Ordinance Development by Commissioner Bach
2.2. Presentation on Amending Ordinance Regarding Board of Adjustment Replacement & Administrative Law Judge Appeal Authority by Commissioner Bach or Council Member Veranth

III. PUBLIC COMMENT ON AGENDA ITEMS (Public Input) (≤ 20 minutes)
Speakers must state their name for the record and are limited to 3 minutes.

IV. DEPARTMENT REPORTS

4.1. Town Council Liaison
4.2. Administrative Staff
4.3. Presiding Officer

V. CONSENT AGENDA (Action Item - Motion Required)

DRAFT | V1.0

Items will be approved with a single motion unless a member requests that an item be moved, allowing for individual discussion and action

5.1. Approval of Proposed Minutes: September 15, 2026 Regular Meeting

VI. PUBLIC HEARING (Public Input Only, Motion to Enter/Exit)

None Scheduled

VII. DISCUSSION AND POSSIBLE ACTION ITEMS (Motion Required)

7.1. Review of Memo: Town Council Directives & Request for Preliminary Feedback: Upcoming Planning Commission Priorities and Assignments

7.1.1. Discussion and Feedback on TC-PC Workflow: Process for Town Council-Planning Commission Communications and Ordinance Development

7.1.2. Discussion and Feedback on Draft Directive for Chapter 153 Zoning Code Revision

7.1.3. Discussion and Feedback on Draft Directive for Board of Adjustment Replacement with Administrative Law Judge Appeal Authority

7.1.4. Discussion regarding potential joint Town Council and Planning Committee work session on November 17, 2026 at 6:00 PM

- In lieu of a PC regular meeting
- In addition, holding PC's regular meeting before or after
- Other options as proposed by PC members

VIII. GENERAL PUBLIC COMMENT (Public Input) (≤ 20 minutes)

Speakers must state their name for the record and are limited to 3 minutes.

IX. CLOSING BUSINESS

9.1. Meeting Outcomes and Assignments

Summarize discussions and actions taken. Identify any necessary tasks, including assignments, deadlines, and expected outcomes.

9.2. Future Agenda Items

Review and identify upcoming mandatory or essential business and member submissions for consideration; Annual Municipal Calendar

9.3. Confirm Next Meeting: November 17, 2026 6:00 PM

DRAFT | V1.0

X. ADJOURNMENT

The presiding officer may adjourn the meeting without objection when the agenda is complete. If the meeting ends early, a formal motion to adjourn is required and must pass with a majority vote of members present.

NOTICE

SPECIAL ACCOMMODATIONS (ADA)

In compliance with the Americans with Disabilities Act (ADA), individuals needing reasonable accommodations should notify the Boulder Town Office at 435-335-7300 or townclerk@boulder.utah.gov at least one week before the meeting.

ELECTRONIC OR TELEPHONE PARTICIPATION

Zoom Link: https://us06web.zoom.us/j/4353357300
Meeting ID: 4353357300 Password: 84716 Phone: +1 346 248 7799
Policy: Ensure your Zoom name includes the first and last names of attendees

CERTIFICATE OF POSTING

This Agenda and Notice was publicly posted on the following locations:

- The Utah Public Notice website (http://pmn.utah.gov)
- Boulder Town's website (http://www.boulder.utah.gov)
- Boulder Town's Bulletin Board

Date Published: **October 13, 2026**
/s/ Gina Ortolan, Deputy Clerk/Recording Secretary

DRAFT | V1.0

DRAFT- 052125

Process for Town Council-Planning Commission Communications and Ordinance Development

Date	Activity	Possible Outcome
Jan – 1st wk	Town Council (TC) identifies a need (statement of the problem or issue) and any known constraints. Transmits the problem statement and constraints to the Planning Commission (PC).	Clear statement of problem or issue, possible constraints
Jan – 3rd wk	PC discusses the problem, determines if it is clearly understood, identifies any questions or concerns and begins to outline possible alternatives to address the issue.	Possible alternative approaches, clarifying questions, concerns
Feb – 1st wk	PC (Chair?) presents at the TC meeting, asking clarifying questions and outlining preliminary alternatives. TC provides answers and expresses interest in specific alternatives.	Preferred alternative approach
Feb – 3rd wk	PC discusses preferred alternative(s) and holds a public hearing to gather reactions and input.	Clarification and questions on preferred alternative based on discussion and public input.
Mar - 1st wk	PC Chair presents at TC meeting - input on preferred alternatives. Gets feedback from TC	
Mar – 3rd wk	PC discusses draft ordinance language	Draft ordinance
Apr – 1st wk	PC presents and discusses with TC proposed ordinance language	Initial reactions from TC on draft ordinance
Apr – 3rd wk	PC discusses language changes, holds a Public Hearing on the proposed ordinance, drafts final language, transmits final draft ordinance to the TC	Final draft ordinance language
May – 1st wk	TC discusses the final draft ordinance	



Board of Adjustment & Appeals

- I want to thank the current and past members of the Board of Adjustment for their service.

  Jabe Beal, Jeanne Zeigler, Ray Gardner, Susan Kelly

  Nick Vincent, Elizabeth Julian, others over the years.

- What I am proposing is not a criticism of the current town Board of Adjustment, but addresses problems that are intrinsic to any citizen-based appeal authority.



Citizen Appeal Board Issues

- The administrative appeal process is the first step in resolving potential litigation.
  - Citizens are being asked to rule on complex legal issues.
  - Errors in procedure or documentation can lead to a court making a ruling unfavorable to the town.
- There is no advantage to have “local input” on appeals.
  - State law allows very limited discretion on land use variances.
  - Administrative decision appeals are based on legal specifics, not public opinion.



Small-town Specific Issues

- There are additional issues with a citizen appeal board in a small town like Boulder.
  - Citizens are being asked to serve as neutral arbitrators of issues involving neighbors, friends, or relatives.
  - We have a small pool of volunteers. BoA members are prevented from serving in other land use roles
  - Appeals are rare (0 in 5 years) that new board members do not benefit from the experience of existing members.



Administrative Law Judge

- Many jurisdictions appoint an attorney with land use expertise to serve as the appeal authority.
  - Impartial – decision is separated from local relationships
  - Ruling is made by someone with relevant training and experience
- Generally work is on a fee for service basis.
- Preliminary discussions with Craig Call who is the appeal authority for Grand County and many others. Former Utah Property Rights Ombudsman.
  - Sample engagement agreement provided.



Boulder, Appeal Authority

Recommendation:

Initiate the process of replacing the Board of Adjustment with a Administrative Law Judge.

Steps

1) *Because "appeals" is in Chapter 153 (Zoning Ordinance) refer the question to the planning commission. Draft charge in Packet.*
2) *TC reviews recommendation and decides on key policy issues for the ordinance.*
3) *Town Attorney to draft ordinance language.*
4) *Town Council public hearing, debate, and vote*
5) *Open request for proposals for Admin. Law Judge.*
6) *Sign fixed-term contract for appeal services as needed.*



Bullet Points - Charge to PC

- Review the information land use appeals from ULCT and the information provided by Mr. Call and any other background information the commission considers relevant.
- Consider the pros and cons of switching to an Administrative Law Judge for land use and administrative approval appeals.
- Consider how this change would affect administration of the zoning code and other town ordinances.
- Make a recommendation to the Town Council within two months.
- Motion “Assign John to write up the formal charge based on the discussion tonight and transmit it to the Planning Commission.”

DRAFT MINUTES PENDING APPROVAL

BOULDER TOWN, UTAH PUBLIC NOTICE

Governing Body: PLANNING COMMISSION
Meeting Type: Regular Meeting
Date and Time: Tuesday, September 15, 2026, at 7:00 p.m.
Location: Boulder Community Center, 351 North 100 East, Boulder, Utah

In accordance with the Utah Open and Public Meetings Act, Utah Code Ann. § 52-4-202, the minutes for the above-referenced meeting are provided below.

MINUTES

I. OPENING PROCEDURES

1.1. Call to Order

Acting Chair Elena Hughes called the [Planning Commission Regular] Meeting to order at 7:01 PM at the Boulder Community Center, 351 North 100 East, Boulder, Utah.

1.2. Roll Call and Determination of Quorum

Planning Commission present:
Commissioner Jen Bach
Commissioner Phoenix Bunke,
Commissioner Darrell Fuller (arrived at 7:03 PM),
Commissioner Nick Vincent,
Vice-Chair Elena Hughes

Also Present:
Boulder Town Mayor, Cheryl Cox
Town Council Member Tina Karlsson
Elizabeth Julian, Town Clerk

A quorum was established.

1.3. Adoption of Agenda

Motion: *Commissioner Jen Bach moved to adopt the agenda as presented. Commissioner Nick Vincent seconded.*

Vote: *Voice Vote – All members present voted aye.*

Result: Approved unanimously (4-0).

1.4. Declaration of Conflicts of Interest

Elena Hughes asked for any declarations of conflict of interest. None were declared.

II. PRESENTATIONS AND REPORTS

2.1. Five County Association of Governments Summit Key Takeaways

Elena Hughes provided a brief recap, noting that the Commission had attended a training led by Rob Terry of the State Property Rights Ombudsman's Office the prior week. Topics covered included general plans, zoning, Utah's Land Use, Development, and Management Act (LUDMA), and conditional use permits. The primary item noted for the record was that if a use is not strictly prohibited in town ordinances, it tends to be resolved in favor of the landowner. Substantive discussion of takeaways was deferred to Agenda Item 7.2.

III. PUBLIC COMMENT ON AGENDA ITEMS

No members of the public present in the room or attending remotely offered comments on agenda items.

IV. DEPARTMENT REPORTS

4.1. Town Council

The Town Council Liaison **Tina Karlsson** advised the Commission that no formal direction had been transmitted from the Town Council to the Planning Commission, but emphasized that reviewing commercial zoning provisions against the General Plan remained the most pressing priority. The Liaison also noted that state law had been updated to require that accessory dwelling units (ADUs)—not only internal ADUs—be permitted as a matter of right, and indicated that documentation would be forwarded to Town Clerk Elizabeth Julian for distribution to the Commission.

4.2. Staff

Town Clerk Elizabeth Julian reported that Gina Ortolan had been hired as Deputy Clerk and Recording Secretary at the September 1 Town Council meeting, and was not in attendance due to a previously scheduled absence. Clerk Julian further reported that Zoning Administrator Erin Smith had submitted a letter of resignation over the weekend. Ms. Smith indicated approximately two weeks of availability, with one of those weeks already committed to travel. Her letter stated she remained available through December on an as-needed, by-appointment basis. The Town Council will advertise to fill the position.

V. APPROVAL OF PROPOSED MINUTES

5.1. August 18, 2026, Regular Meeting

> ***Motion:*** *Commissioner Jen Bach moved to adopt the August 18, 2026 Regular Meeting. Commissioner Nick Vincent seconded.*

Requested a correction: item 7.3 heading erroneously referenced updating the General Plan due to clerical carryover from earlier proceedings. The record was amended to reflect consideration of recommending Draft Ordinance No. 2026-D to the Town Council regarding Chapter 153.204 amendments.

> ***Amended Motion:*** *Commissioner Phoenix Bunke moved to adopt the August 18, 2026 Regular Meeting with the amended corrections. Commissioner Jen Bach seconded.*
>
> ***Vote:*** *Roll Call Vote – Commissioner Darrell Fuller – Aye, Commissioner Jen Bach – Aye, Commissioner Nick Vincent – Aye, Commissioner Phoenix Bunke – Aye, Acting Chair Elena Hughes – Aye.*
>
> ***Result: Approved unanimously (5-0).***

VI. PUBLIC HEARING

None Scheduled

VII. DISCUSSION AND POSSIBLE ACTION ITEMS

7.1. Election of Chair and Vice Chair

The Commission conducted nominations for Chair and Vice-Chair. Commissioner Jen Bach nominated Commissioner Elena Hughes for Chair. Commissioner Darrell Fuller nominated Commissioner Jen Bach for Chair. Discussion followed regarding both candidates' qualifications, availability, and experience. The Commission reached a general consensus that Elena Hughes, having served the longest and having the most direct experience conducting meetings, was best positioned to serve as Chair, while Commissioner Jen Bach would serve as Vice-Chair with the understanding that the role could transition to Commissioner Bach as she gained experience. Commissioner Fuller expressed support for both candidates' competence and integrity, noting his comments pertained solely to considerations of public perception rather than any personal objection. The Commission agreed to work collaboratively on meeting preparation responsibilities.

> ***Motion:*** *Commissioner Jen Bach moved that Elena Hughes serve as Chair and Jen Bach serve as Vice-Chair of the Boulder Town Planning Commission. Commissioner Phoenix Bunke seconded.*
>
> ***Vote:*** *Roll Call Vote – Commissioner Darrell Fuller – Aye, Vice Chair Jen Bach – Aye, Commissioner Nick Vincent – Aye, Commissioner Phoenix Bunke – Aye, Chair Elena Hughes – Aye.*
>
> ***Result:*** *Approved unanimously (5-0). Elena Hughes is elected Chair and Jen Bach is elected Vice-Chair of the Boulder Town Planning Commission.*

7.2. Discussion on Five County Association of Governments Summit Key Takeaways

The Commission discussed individual takeaways from the Five County Association of Governments training. Key points raised included:

Commissioner Phoenix Bunke highlighted the distinction between administrative and legislative decisions, the importance of incorporating specific restrictions into town ordinances, and the trainer's clarification on the concept of regulatory takings—noting that an ordinance is unlikely to constitute a taking unless it removes the entire economic value of a property, and that courts will

generally uphold local decisions that are reasonably debatable as advancing public welfare and consistent with state code. The Property Rights Ombudsman's advisory opinions were identified as a useful reference resource.

Commissioner Nick Vincent emphasized the principle that in administrative decisions, the land use authority must resolve ambiguity in favor of the applicant when a regulation does not plainly restrict a proposed use. He noted the importance of having well-developed ordinances in order to avoid burdening applicants with prolonged processes, and underscored the value of community input at the legislative stage, similarly the members responsibility of focusing on the facts and not opinions.

Vice Chair Jen Bach reiterated the significance of the legislative versus administrative distinction, particularly regarding public comment. She noted the trainer's emphasis that public opinion may be considered when ordinances are being created, but cannot alter the application of existing rules during administrative proceedings. Vice Chair Jen Bach also raised the question of whether the planning commission's land use authority designation warranted reconsideration, particularly given the anticipated departure of Zoning Administrator Erin Smith.

Commissioner Darrell Fuller commended the Ombudsman's Office for grounding its guidance in case law. He noted that the office's website contains advisory opinions on topics such as exactions and development, and suggested that the Commission consider reaching out to the Ombudsman's Office for guidance as the Commission prepares to address zoning. Commissioner Fuller expressed interest in attending the Utah League of Cities and Towns (ULCT) Annual Convention and suggested that the Commission explore using public-facing tools to encourage broader community engagement in the review of ordinances.

Chair Elena Hughes noted that the trainer indicated that broad prohibitions could be crafted using language such as "uses similar in nature" to named prohibited uses, which may offer a workable mechanism to address unanticipated land uses without enumerating every possibility. She expressed interest in seeking clarification from the trainer on additional examples beyond the one offered. She further noted that the Boulder delegation was notably younger than other attendees and that their table was among the most active in asking questions.

7.3. Discuss Next Steps on General Plan

The Commission discussed pending and upcoming business items. It was noted that

the Commission is generally awaiting direction from the Town Council. It was suggested that members review the General Plan and zoning chapter, particularly provisions relating to commercial uses, in preparation for the next meeting.

The Commission then turned to the matter of the Utah League of Cities and Towns (ULCT) Annual Convention scheduled for October 27–28, 2026. Commissioner Darrell Fuller indicated interest in attending and noted that the early registration price of $415 would increase after September 30. Commissioner Jen Bach indicated conditional interest pending scheduling considerations. Town Clerk Elizabeth Julian confirmed that the Commission's budget for the current fiscal year (beginning July 1) had not yet been drawn upon, other than a prior travel reimbursement, and that funds were available. Clerk Julian also noted the importance of registering under the town's membership status to access the member rate.

> ***Motion:*** *Commissioner Darrell Fuller moved to make funds available for Commissioner Darrell Fuller and/or Vice Chair Jen Bach to register for the 2026 ULCT Annual Convention on October 27–28, 2026. Commissioner Phoenix Bunke seconded.*
>
> ***Vote:*** *Roll Call Vote – Commissioner Darrell Fuller – Aye, Vice Chair Jen Bach – Aye, Commissioner Nick Vincent – Aye, Commissioner Phoenix Bunke – Aye, Chair Elena Hughes – Aye.*
>
> ***Result: Approved unanimously (5-0).*** *Funds are authorized for Commissioner Darrell Fuller and/or Vice Chair Jen Bach to attend the 2026 ULCT Annual Convention.*

Action Item Assigned: Commissioner Darrell Fuller and Vice Chair Jen Bach are to make their registration decisions before September 30, 2026, to take advantage of the lower price point, and to register using the town's member rate.

VIII. GENERAL PUBLIC COMMENT

Town Council Liaison Tina Karlsson reiterated that the Commission does have existing direction from the Town Council and encouraged members to focus their preparatory efforts on commercial zoning in relation to the General Plan.

Mayor Cheryl Cox thanked the Commission for attending the training and noted the value of the refresher for all members. She also raised the possibility of forming

joint working groups—not constituting quorums—composed of Planning Commission members and Town Council members to collaboratively work through upcoming ordinances prior to formal approval, so that commissioners are not encountering material for the first time at public meetings.

IX. CLOSING BUSINESS

9.1. Review of Outcomes, Assignments, and Counsel Recommendations

- Elena Hughes elected as Planning Commission Chair; Jen Bach elected as Vice-Chair.
- The Commission was previously assigned commercial zoning provisions.
- Funds authorized for Commissioner Darrell Fuller and/or Commissioner Jen Bach to attend the 2026 ULCT Annual Convention, October 27–28, 2026, with registration before September 30, 2026, using the member rate.

Action Item: The Town Council Liaison Tina Karlsson will forward the updated ADU state law documentation to Town Clerk Elizabeth Julian for distribution to the Commission.

Action Item: All Commission members are to review the General Plan and zoning chapter, with particular attention to commercial provisions, in advance of the next meeting.

Action Item: Chair Hughes disclosed for the record that she will be unavailable for meeting preparation duties until approximately October 15, 2026, due to personal commitments. It was determined that Vice Chair Jen Bach, as Vice-Chair, would take the lead on agenda preparation and preside over the October meeting in coordination with administrative staff.

9.2. Confirmation of Next Meeting

The next regular meeting of the Boulder Town Planning Commission was confirmed for **Tuesday, October 20, 2026, at 7:00 PM**.

X. ADJOURNMENT

> ***Motion:*** *Commissioner Darrell Fuller moved to adjourn the meeting. Commissioner Nick Vincent seconded.*

Vote: *Voice Vote – All members present voted aye.*

Result: *Approved unanimously. The meeting was adjourned at 7:59 PM.*

CERTIFICATE

BOULDER TOWN, STATE OF UTAH

_____

[First and Last Name], Title

ATTESTATION:

_____

[First and Last Name], Title

Date Approved by the Town Council: _____

DRAFT

MEMORANDUM

TOWN OF BOULDER, STATE OF UTAH

To: Planning Commission, Town of Boulder
From: The Town Council (Prepared by the Administrative Team)
Date: October 8, 2026
Subject: Town Council Directives & Request for Preliminary Feedback: Upcoming Planning Commission Priorities and Assignments (Draft Directives for Chapter 153 Zoning Code Revision and Board of Adjustment Replacement with Administrative Law Judge Appeal Authority)

1. EXECUTIVE SUMMARY & ACTION CONTEXT

During the regular meeting of the Boulder Town Council on **October 6, 2026**, under Work Session Items 9.2 (Discussion and Assignment of Planning Commission Priorities) and 9.4 (Consideration of Amending Ordinance to Replace Board of Adjustment with Administrative Law Judge Appeal), the Town Council evaluated upcoming priorities, scope, and communication channels for the Planning Commission.

The Town Council established consensus to formalize all future assignments transmitted to the Planning Commission through written, voted problem statements to ensure clear, unified guidance. Before formally approving and issuing official directives at the **Monday, November 2, 2026 Regular Town Council Meeting, the Town Council** is transmitting two draft priority concepts to the Planning Commission for preliminary review, discussion, and feedback during the Planning Commission's upcoming October meeting.

2. TOWN COUNCIL–PLANNING COMMISSION COMMUNICATIONS FRAMEWORK

The Town Council continues to utilize the established *"Process for Town Council-Planning Commission Communications and Ordinance Development"* (drafted May 22, 2025) as the baseline for determining and transmitting legislative priorities. Under this framework and recent Council discussions, the Town Council will:

Problem Statement: Identify a clear problem statement and known constraints in plain language.

Formal Council Vote: Formally vote on the text of the charge/directive as a Council before transmitting it, avoiding informal or conflicting directives.

Collaborative Iteration & Phased Review: Solicit Planning Commission feedback through structured, multi-month check-ins (including initial review, alternative exploration, public hearings, and joint presentations/draft language prior to final Council action).

3. UPCOMING DIRECTIVES FOR PLANNING COMMISSION REVIEW AND FEEDBACK**Note: These draft directives are currently submitted for preliminary review and feedback, and are not yet official or finalized Town Council charges.**

Please review the following two directives during your October meeting and provide preliminary feedback, questions, and administrative considerations to the Town Council:

Draft / For Preliminary Review DIRECTIVE 1: Comprehensive Review and Revision of Chapter 153 Zoning Ordinance

Assignment & Scope: Perform a full review and modernization of Chapter 153 (Zoning Ordinance) to ensure alignment with the General Plan, eliminate internal code contradictions, and streamline land use procedures. Revision of Chapter 153 is designated as the Planning Commission's primary multi-month priority.

Starting Reference Draft: Review the March 2026 draft charge (prepared by Council Member John Veranth) as the initial baseline and recommend modifications to assist the Town Council in issuing a formal assignment.

Technical Assistance & Code Audit: Technical and auditing support may be available by Local Administrative Advisor Roger Carter of the Five County Association of Governments (5 County AOG), in collaboration with Southern Utah University (SUU) to audit Chapter 153 for state statutory compliance, ambiguity resolution, and model best practices.

Feedback Requested: The Planning Commission is requested to review the March draft charge at its October 20 meeting and identify any missing priority topics, operational challenges, or structural recommendations.

Draft / For Preliminary Review DIRECTIVE 2: Ordinance Amendment Replacing Board of Adjustment with Administrative Law Judge (ALJ) Appeal Authority

Assignment & Scope: Initiate a specific ordinance amendment to Chapter 153 replacing the citizen-based Board of Adjustment (BOA) with a qualified

Administrative Law Judge (ALJ) or professional land use attorney as the Town's land use appeal authority.

Rationale & Considerations

Legal Expertise: Appeals involve complex legal records and due process requirements best handled by trained legal professionals to minimize legal liability.

Impartiality: Replaces local volunteer boards with an independent authority, reducing potential conflicts of interest inherent in small communities.

Efficiency & Costs: Utilizes a fee-for-service model (incurring costs only when an active appeal is filed) and conserves local volunteers available for other civic roles..

Feedback Requested: Following an informational presentation at the October Planning Commission meeting, the Commission is requested to discuss administrative considerations, procedural preferences (such as record review standards), and transmit its feedback to the Council.

4. NEXT STEPS & DEADLINES

Timeline Phase	Action & Key Milestones
October 20, 2026 (PC Regular Meeting)	The Planning Commission reviews the March 2026 draft zoning charge and receives the informational presentation on the Board of Adjustment/ALJ transition, formulating feedback for the Town Council.
November 2, 2026 (TC Regular Meeting)	The Town Council reviews Planning Commission feedback, refines the formal charges, and votes to formally issue directives.
November 17, 2026 (Tentative Joint Work Meeting)	A joint Town Council–Planning Commission work session is tentatively being proposed for November 17, 2026 in conjunction with the regular Planning Commission meeting.

5. ATTACHMENTS AND REFERENCE MATERIALS

A. Draft Minutes of the October 6, 2026 Town Council Regular Meeting. BT-2026_...

B. Process for Town Council–Planning Commission Communications and Ordinance Development (drafted May 22, 2025). BT-2026_R…

C. March 2026 Draft Charge to the Planning Commission regarding Chapter 153 Zoning Code Revisions (prepared by Council Member John Veranth) BT-2026_N…

D. Boulder Town Code Chapter 153 Zoning BT-2026_C…

E. Presentation Slides on Board of Adjustment Replacement & Administrative Law Judge Appeal Authority (presented October 6, 2026). BT-2026_P…

F. Boulder Town Code Chapter 153.043 Board Of Adjustment BT-2026_C…

DRAFT- 052125

Process for Town Council-Planning Commission Communications and Ordinance Development

Date	Activity	Possible Outcome
Jan – 1st wk	Town Council (TC) identifies a need (statement of the problem or issue) and any known constraints. Transmits the problem statement and constraints to the Planning Commission (PC).	Clear statement of problem or issue, possible constraints
Jan – 3rd wk	PC discusses the problem, determines if it is clearly understood, identifies any questions or concerns and begins to outline possible alternatives to address the issue.	Possible alternative approaches, clarifying questions, concerns
Feb – 1st wk	PC (Chair?) presents at the TC meeting, asking clarifying questions and outlining preliminary alternatives. TC provides answers and expresses interest in specific alternatives.	Preferred alternative approach
Feb – 3rd wk	PC discusses preferred alternative(s) and holds a public hearing to gather reactions and input.	Clarification and questions on preferred alternative based on discussion and public input.
Mar - 1st wk	PC Chair presents at TC meeting - input on preferred alternatives. Gets feedback from TC	
Mar – 3rd wk	PC discusses draft ordinance language	Draft ordinance
Apr – 1st wk	PC presents and discusses with TC proposed ordinance language	Initial reactions from TC on draft ordinance
Apr – 3rd wk	PC discusses language changes, holds a Public Hearing on the proposed ordinance, drafts final language, transmits final draft ordinance to the TC	Final draft ordinance language
May – 1st wk	TC discusses the final draft ordinance	

JMV Notes March 3 - Town Council

9.2. Consideration of Workflow Agreement: General Plan and Zoning Code Planning

I listened to the recording of the February PC meeting and found that most of the discussion and action items was addressing revision of the General Plan, and not the need to update the zoning chapter.

Regarding the General Plan there has been mission creep. In January the TC discussion was about spending 3-4 months on the general plan to provide clarity before addressing Chapter 153. In February PC the discussion involved revisiting the goals and vision as well as the policies. The goals and vision of the general plan were reconsidered in 1997, 2008, 2013, and 2019 with community input. Substantive changes to the vision and goals should be a long slow process with community workgroups, consensus-building negotiation, and the use of neutral facilitators such as Five-County and the GNAR initiative.

Regarding zoning, the (draft) minutes of the February 10 Special Meeting clearly state:
"The group eventually reached consensus on priorities:
* Update procedural parts of zoning with consultant assistance
* Work on the commercial sections of both the general plan and zoning in tandem
* Acknowledge future work needed on the general plan, but not as an immediate priority."

"Planning Commission Chair Nancy Tosta asked if John Veranth's memo could serve as the problem statement for step one of their process.

"The consensus was that the Planning Commission is authorized to proceed to the second step of the workflow, enabling them to begin work at their upcoming meeting next week. However, the Town Council will initiate the workflow process at its March meeting, following the Planning Commission's work.

Second Step of the Workflow
(BT-2026-TC_RESOURCE_2026-02-10_2025-05-25TC-PCCommunications.pdf)

"PC discusses the problem, determines if it is clearly understood, identifies any questions or concerns and begins to outline possible alternatives to address the issue."

This did not happen at the February PC meeting.

During the PC meeting the urgency of addressing the commercial issue was questioned. Since the PC has asked for direction, I would like to provide specifics.

The Boulder Town budget, the jobs of many local residents, and the financial stability of ranching families are all dependent on commercial activity. The town needs to support local businesses. Town support includes clarity on the rules regarding expanding and modifying the premises and to allowing successful businesses to grow beyond the limitations imposed on home businesses.

The 2021 General Plan and Zoning Ordinance change had the valid intent of allowing Boulder-compatible commercial development beyond the previous Commercial Zone, which allowed Ray Gardner to open his campground. However, due to misunderstanding regarding

the limitations of conditional use permits the 2021 change made most of the town effectively a commercial zone. The commercial standards checklist was (and remains) problematic as a defense against an unwanted commercial project.

To address the threat of the town being required to approve an unwanted commercial project we passed Ordinance 2025-7. This ordinance eliminated the "Commercial" line which had shown "Potentially Compatible" in the GMU zone, but also indicated the "Commercial existing before 2021" is a permitted use in the Commercial Zone. This change is not a long-term solution because it is no longer legal to establish a new business anywhere in town unless it is a home business. Is that what the community wants?

I would like to present for Town Council discussion the bullet points for a more specific charge regarding zoning as was promised in the February TC Minutes:

Problem Statement: The current Chapter 153 has two deficiencies: 1) The current text is the result of multiple ordinances and contains contradictory statements and provisions that are inconsistent with state law. 2) The provisions for commercial activity are not supportive of the existing local businesses and are barriers to new and expanded businesses.

Constraints:

1) The limitations imposed by state law on municipal land use regulations, especially conditional uses.

2) The need to balance between a healthy local economy and preservation of Boulder's rural character.

3) Ordinance language related to this revision should be submitted to town council within six months.

4) Planning recommendations need to secure majority support of the Town Council.

For discussion and amendment tonight:

4A) Completely rewrite the administrative and procedural sections of Chapter 153 to provide internal consistency and clarity for citizens and to address the regulation of commercial activity within the historic commercial zone. The February 9 memo lists known problem areas but is likely incomplete.

4A-1) Consider the February PC discussion regarding moving topics from zoning to other code sections where appropriate.

4B) Restore the Commercial zone to allow reasonable changes and expansion of existing businesses and allow for new businesses.

4B-1) Use ideals from the 2021 changes to define the business characteristics that are compatible with rural character.

4B-2) Clearly define what is allowed and prohibited in the commercial zone.

4B-3) Use legislative zoning change rather than the CUP process to authorize new types and locations of commercial activity not addressed in 2B.

4C) Support home businesses by eliminating regulatory burden on activities that take place within a dwelling structure and that have minimal impact on traffic and adjoining properties.

4D) Use the existing general plan statement Section 7-4 Goal 1 to guide the zoning revision. "Goal 1: Types and Mix of Land Uses to be designated -- To achieve the development of a well- balanced, financially sound, and functional mix of agricultural, residential, light industrial, commercial, open space, recreational, institutional and educational land uses, without denigration of the rural character and heritage of the Town."

_____

Recent approvals of commercial projects did not strictly follow the ordinances, in part because there are inconsistent or ambiguous provisions in the current code. Such practices could lead to legal challenges if a project proponent chooses to litigate over a denial. If anyone is interested, I will give examples offline.

1) The table of uses concludes with "A blank cell indicates that the use is prohibited in that zoning district." but this does not comply with SB 179 (2025) regarding a process for approval of new and unlisted business uses.

2) Commercial in GMU was removed by Ordinance 2025-7 but Section 153.415 Commercial Development Standards still states "Commercial development is confined to parcels from which there is direct access to Utah Highway 12," a direct contradiction.

3) Section 153.116 states "this Commercial District is no longer in use. It is retained only to provide a regulatory framework for those uses that were approved within it." How does this affect changes in ownership, business name, or add-ons such as the food trucks?

CHAPTER 153: ZONING

Section

General Provisions

153.001 Short title

153.002 Authority

153.003 Declaration

153.004 Purpose

153.005 Applicability

153.006 Permits and licenses to conform to this chapter

153.007 Town imposed requirements and exactions on application approval

153.008 Effective date

153.009 Omissions not a waiver

153.010 Repealer and effect

153.011 Definitions

Interpretation of Requirements and Provisions

153.025 Interpretation

153.026 Administrative interpretations

153.027 Authority and rules for interpretation of zoning district boundaries

Land Use Authorities and Decision Making

153.040 Land use authorities provided

153.041 Boulder Town Council

153.042 Boulder Town Planning Commission

153.043 Board of Adjustment

153.044 Zoning Administrator

153.045 Support

153.046 Meetings and public hearings

153.047 Provision of administrative guidelines

153.048 Computation of time

153.049 Fractional numbers

153.050 Procedural irregularities

153.051 Determination of completeness of land use applications

153.052 Continuing validity of land use application approvals

153.053 Land use authority compliance with land use ordinances

153.054 Land use approvals required to comply with land use ordinance

153.055 Acquiring property

153.056 Exactions

Amendments to the Boulder Town General Plan and Zoning Ordinance

153.070 Amendments to town's General Plan

153.071 Procedures for amending the town's General Plan

153.072 Criteria for approval of General Plan amendments

153.073 Effect of General Plan amendment; consistency required

153.074 Amendments to chapter, including the zoning districts map

153.075 Procedures for amending this chapter and zoning districts map amendments (rezones)

153.076 Criteria for approval of a zoning ordinance and/or zoning districts map amendment

153.077 Effect of an amendment to chapter and zoning districts map

Development Applications and Procedures

153.090 Purpose

153.091 Applicability

153.092 Application forms

153.093 Development application procedures

153.094 Permits required

153.095 Development application; initiation

153.096 Determination of application completeness

153.097 Remedying application deficiencies

153.098 Payment of taxes and charges required

153.099 Scope of development approvals

153.100 Amendment to development permits

153.101 Reapplication following denial

153.102 Inspections

153.103 Fee for processing development applications

Establishment of Zoning Districts

153.115 Zoning by districts

153.116 Zoning districts purpose

153.117 Table of uses

153.118 Table of development standards

153.119 Lot size averaging

153.120 Off-street parking requirements

Permitted Uses; Review and Approval

153.135 Approval required

153.136 Application requirements

153.137 Review and approval procedures

Conditional Use Permits

153.150 Issuance

153.151 Applications, public hearing required; Planning Commission authorized to render conditional use decisions

153.152 Site development plan requirements

153.153 [Reserved]

153.154 Approval or denial of a conditional use permit application by the Planning Commission

153.155 Revocation or modification of a conditional use permit

Temporary Uses

153.170 Purpose

153.171 Applications; Zoning Administrator authorized to render temporary use decisions

153.172 Allowed temporary uses

153.173 Exemptions

153.174 Conditions may be imposed

153.175 Temporary use of RV for living purposes during period of construction of permanent dwelling

153.176 Temporary use of recreational vehicles for employee housing on commercial and institutional property

General and Supplementary Development Standards

153.185 Establishment of development standards

153.186 General requirements

153.187 Non-conforming lots prohibited

153.188 Sale or lease of required space prohibited

153.189 Reserved

153.190 Access required

153.191 Fences and walls

153.192 Exceptions to height limitations

153.193 Water and sewage requirements

153.194 Effect of official map

153.195 Noxious weeds

153.196 Site lighting

153.197 Supplementary requirements

153.198 Hazardous waste; purpose

153.199 Public uses and utilities

153.200 Reserved

153.201 Recreational type vehicle as a temporary dwelling

153.202 Signs

153.203 Accessory dwelling units

153.204 Residential short-term rentals

153.205 Wireless communication towers and facilities

Sensitive Lands, Hillside and Mesa Tops Protection Overlay District

153.235 Purpose and intent

153.236 Sensitive lands, hillside and mesa top areas

153.237 Development restrictions

153.238 Development requirements and restrictions

153.239 Application requirements

153.240 Required information

153.241 Bonding

Non-Conforming Uses, Non-Complying Structures and Other Non-Conformities

153.255 Purpose

153.256 Legal non-conforming uses or non-complying structures may be continued

153.257 Authority

153.258 Initiation

153.259 Application requirements; determination of application completeness required

153.260 Burden of proof with the property owner

153.261 Determination of existence of a legal non-conforming use, legal non-complying structure or other legal non-conformity application requirements

153.262 Approval standards for a determination of the existence of a legal non-conforming use, legal non-complying structure or other legal non-conformity application by the BOA

153.263 Required findings for approval or denial of a determination of the existence of a legal non-conforming use, legal non-complying structure or other legal non- conformity application by the BOA

153.264 Effect of approval of an application for a determination of the existence of a legal non-conforming use, legal non-complying structure or other legal non-conformity

153.265 Requirements for non-conforming uses

153.266 Requirements for non-complying structures

153.267 Requirements for non-complying lots

153.268 Requirements for non-complying signs

153.269 Termination of a non-conforming use by the town permitted; reasonable amortization period required

153.270 Termination of a non-conforming use due to abandonment

153.271 Determination of a legal non-conforming use, legal non-complying structure, other legal non-conformity applications by the BOA to be on file

153.272 Revocation of a determination of a legal non-conforming use, legal non-complying structure, other legal non-conformity applications

153.273 Appeal

Moving of Buildings

153.285 Purpose

153.286 Application required

153.287 Approval procedures

153.288 Permits and guarantees required

153.289 Certificate of occupancy

153.290 Restoration of old site

Variances

153.305 General

153.306 Use variance prohibited

153.307 Standards

153.308 Conditions

153.309 Effect of granting a variance

153.310 Time limitation

153.311 Application required

Enforcement

153.325 Enforcement; procedures and duties

153.326 Civil enforcement

153.327 Reconsideration/revocation of approvals, permits and licenses

153.328 Revocation procedures

Review of Constitutional Taking Issues

153.340 Policy considerations; purpose

153.341 Guidelines advisory

153.342 Review of final town decision; procedures

153.343 Reviewing guidelines

153.344 Results of review

Appeal Authorities and Procedures

153.355 Purpose

153.356 Appeal authorities

153.357 Maximum time allowed to file appeal

153.358 Requirements for an appeal

153.359 Condition precedent to judicial review, appeal authority duties

153.360 Application required

153.361 Meetings, records and action of an appeal authority

153.362 Due process

153.363 Burden of proof

153.364 Standard of review for appeals

153.365 Final decision

153.366 District Court review

Public Notice and Applicant Noticing Requirements

153.380 Purpose

153.381 Required notice of public hearings and public meetings to consider general plan or general plan amendment applications

153.382 Required notice of public hearings and public meetings to consider the adoption or any modifications of land use ordinances, including this chapter, zoning districts map, other official maps and notice of final action

153.383 Required notice for other public hearings

153.384 Required notice for other public meetings

153.385 Notice challenge

Home Businesses

153.400 Home businesses

153.401 Home business standards review worksheet

Commercial Development Standards

153.415 Commercial development standards

153.416 Reserved

Campground and RV Parks

153.430 Additional standards for campgrounds, including RV parks

GENERAL PROVISIONS

§ 153.001 SHORT TITLE.

This chapter shall be known and may be referred to as the “Boulder Town Zoning Ordinance”. The Boulder Town Zoning Ordinance may, in subsequent chapters and sections, be referred to as “ordinance,” “the ordinance,” “this chapter,” “Zoning Ordinance” or “Land Use Ordinance.”

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 101)

§ 153.002 AUTHORITY.

The Town Council adopts this chapter pursuant to the Municipal Land Use, Development and Management Act (hereinafter “the Act”), as provided at UCA §§ 10-9a et seq., as amended, and all other authorities and provisions of Utah and federal statutory and common law as applicable. This chapter constitutes a land use ordinance of the town as authorized by the Act.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 102)

§ 153.003 DECLARATION.

This chapter provides for the establishment of zoning districts, with associated use requirements and development standards, for the guidance, management and regulation of all land uses, buildings and structures and related activities occurring within the municipal boundaries of Boulder Town, Utah (hereinafter “the town”). This chapter is declared to be consistent with and to meet the requirements of the Act.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 103)

§ 153.004 PURPOSE.

(A) The purpose of this chapter is to implement the goals and policies of the Town General Plan and the other purposes as provided for by the Act. It is the intent of this chapter to provide a means of ensuring predictability and consistency in the use and development of lands located within the town.

(B) These purposes are met by:

(1) Providing for the implementation of the Town General Plan;

(2) Guiding growth and development in an orderly manner consistent with the land use and environmental goals and policies of the town;

(3) Preserving the quiet rural and agricultural quality of life enjoyed by residents and protecting farming and ranching as a lifestyle choice for residents;

(4) Preserving the natural beauty and resources, including open space, clean air and water;

(5) Providing opportunities for the establishment of appropriate commercial activities to meet the needs of town residents and others;

(6) Preventing the overcrowding of land;

(7) Generally directing that the more intense development be located in areas where services and facilities are available and sufficient to meet the demands of the proposed development;

(8) Preventing damage and injury from disasters such as fire, flood, geologic and seismic hazards and other dangers;

(9) Directing and managing the type, distribution and intensity of uses and activity;

(10) Encouraging pride in the appearance and quality of the town and providing necessary public facilities and amenities;

(11) Protecting all landowners from potential adverse impacts from adjoining uses; and

(12) Securing economy and efficiency in the allocation and expenditure of public funds.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 104)

§ 153.005 APPLICABILITY.

(A) Applications accepted by the town as complete for any land use approval, permit or license required by the provisions of this chapter shall be processed, reviewed and approved or denied, subject to the provisions of this chapter and all other applicable ordinances of the town in effect at the time the application is accepted as complete by the town, as required by §§ 153.096 and 153.097 of this chapter.

(B) No building or structure shall be erected and no existing building or structure shall be moved, altered or enlarged, nor shall any land, building, structure or premises be used, designed or intended to be used for any purpose or in any manner other than as allowed by this chapter.

(C) The provisions of this chapter shall apply to all lands located within the municipal boundaries of the town, as indicated on the Town Zoning Districts Map, as attached to the ordinance codified herein, and incorporated herein by reference, unless exempted by the provisions of this chapter, or other lawful exemption.

(D) The provisions of this chapter shall be held to be the minimum standards and requirements necessary to protect the public health, safety and welfare of the citizens of the town and to achieve the purposes of this chapter and the Act.

(E) This chapter shall not nullify any law, ordinance or agreements which are more restrictive, but shall prevail notwithstanding such provisions which are less restrictive.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 105)

§ 153.006 PERMITS AND LICENSES TO CONFORM TO THIS CHAPTER.

(A) All land use authorities of the town with the authority to issue approvals, permits or licenses required by this chapter shall require that such approvals, permits, or licenses conform to the provisions of this chapter and the town's other land use ordinances, as may be applicable, and in effect when a land use application is determined to be complete and all fees have been paid, unless:

(1) The land use authority, on the record, finds that a compelling, countervailing public interest would be jeopardized by approving the application; or

(2) In the manner provided by this chapter and before the application is submitted, the town has formally initiated proceedings to amend its land use ordinances in a manner that would prohibit approval of the application as submitted.

(B) The town shall process an application without regard to proceedings initiated to amend the town's land use ordinances if:

(1) One hundred and eighty calendar days have passed since the proceedings were initiated; and

(2) The proceedings have not resulted in an enactment that prohibits approval of the application, as submitted.

(C) If the land use application conforms fully to the requirements of this chapter and the town's other land use ordinances, including this chapter, the land use application shall be approved.

(D) The town shall not impose on an applicant, or any holder of any approval required by this chapter, any requirement that is not expressed:

(1) In the approval required by this chapter, or in documents on which such approval is based; or

(2) In this chapter, or in the town's other land use ordinances, including Ch. 152 of this code of ordinances.

(E) The town shall not withhold the issuance of a certificate of occupancy because of an applicant's failure to comply with a requirement that is not expressed:

(1) In the building permit or in documents on which the building permit is based; or

(2) In this chapter, or the town's other land use ordinances, including Ch. 152 of this code of ordinances.

(F) The town shall be bound by the terms and standards of this chapter and the town's other land use ordinances, as applicable, and shall comply with all mandatory requirements and provisions of such ordinances.

(G) The town shall process and render a decision on each application required by this chapter with reasonable diligence.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 106)

§ 153.007 TOWN IMPOSED REQUIREMENTS AND EXACTIONS ON APPLICATION APPROVAL.

The town shall not impose any requirement(s) or exaction(s) on any approval required by this chapter unless:

(A) An essential link exists between a legitimate governmental interest and each requirement or exaction; and

(B) Each requirement or exaction is roughly proportionate, in both nature and extent, to the impact of the proposed subdivision.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 107)

§ 153.008 EFFECTIVE DATE.

This chapter shall take effect on 7-1-2008 following its adoption by the Town Council.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 108)

§ 153.009 OMISSIONS NOT A WAIVER.

An omission to specify or enumerate in this chapter those provisions of general law applicable to all Utah municipalities shall not be construed to be a waiver of the benefits of any such provisions.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 109)

§ 153.010 REPEALER AND EFFECT.

(A) Upon its adoption by the Town Council, and upon its effective date, this chapter shall amend the town's zoning ordinance existing on the effective date of this chapter and shall govern and apply to the use of all lands, buildings, structures and activities located within the municipal boundaries of the town.

(B) The provisions of this chapter shall be construed to carry out the purposes of this chapter and the purposes of the state enabling laws, including the Act, and to avoid conflict with the laws of the United States of America, the state or any other limitations imposed by law. If any chapter, section, division, provision, sentence or clause of this chapter is declared

unconstitutional by a court of competent jurisdiction, such determination shall not impair the validity of the remainder of this chapter, which shall remain in effect.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 110)

§ 153.011 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDON/ABANDONED. A use that has been discontinued for a minimum period of one year or a building, structure, sign or other object that remains vacant or unused for a minimum period of one year.

ABANDONMENT. Any act that result in abandon.

ABSOLUTE STANDARD. A standard adopted in §§ 15.400 et seq. or 1513.415 et seq. with which a proposed home business or commercial development must comply in order to receive a CUP.

ACCESS. The provision of vehicular and/or pedestrian ingress and egress to a lot, parcel, building or structure.

ACCESSORY BUILDING. A subordinate building detached from, but located on the same lot as the principal use, the use of which is clearly incidental and accessory to that of the principal use. An Accessory Building shall contain no living facilities. External accessory dwellings are separately defined.

ACCESSORY DWELLING UNIT, COMMERCIAL. A dwelling unit for an employee of or the owner that is on the same lot as a commercial use. It may be internal to a commercial structure or external. It must be approved as part of the CUP for a new commercial use or, where it is proposed to add an accessory dwelling to an existing commercial use, approved via an amendment to the existing CUP. Nonconforming commercial uses may not add an accessory dwelling.

ACCESSORY DWELLING UNIT, EXTERNAL. An accessory dwelling unit that is in a separate structure, but on the same lot as the primary dwelling to which it is accessory, and, when rented, is rented for 30 or more consecutive days. For the purposes of this definition, an ADU may be attached to the primary dwelling via a sidewalk and/or a breezeway, or through a garage, but must have a separate entrance.

ACCESSORY DWELLING UNIT, GUEST. A dwelling unit in a residential zone, in addition to the principal dwelling unit, that is used for family, invitees, caretaking and otherwise which meets the criteria found in § 153.203 of this chapter.

ACCESSORY DWELLING UNIT, INTERNAL. An accessory dwelling unit created:

(1) Within a primary dwelling;

(2) Within the footprint of that primary dwelling at the time the internal accessory dwelling unit is created; and

(3) For the purpose of offering a long-term rental of 30 consecutive days or longer.

ACCESSORY DWELLING UNIT, RENTAL. A dwelling unit in a residential zone, in addition to the principal dwelling unit, that is used as a rental for a term or month to month tenancy pursuant to a CUP, and that meets the criteria found in § 153.203 of this chapter.

ACCESSORY USE. A use that is clearly subordinate and customarily incidental to, and located on the same lot as the principal use to which it is accessory.

ACT. The Municipal Land Use, Development and Management Act, as provided by UCA Chapter 10-9a, as amended.

ACTIVE OR VALID BUILDING PERMIT. A building permit that has not expired.

ADJACENT. Meeting or touching at some point, or across a street, alley or other public or private right-of-way.

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.

AFFECTED ENTITY. A county, municipality, independent special district under UCA Title 17A, Chapter 2, Independent Special Districts, local district under UCA Title 17B, Chapter 2, Local Districts, School District, Interlocal Cooperation Entity established under UCA Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility or the Utah Department of Transportation, if:

(1) The entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(2) The entity has filed with the municipality a copy of the entity's general or long-range plan; or

(3) The entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under the Act.

AGENT. The person with written authorization to represent a property owner.

AGRICULTURAL BUILDING. A structure used solely in conjunction with agriculture use, and not for human occupancy, and complying with the requirements of UCA § 58-56-4, as amended. To qualify as an ***AGRICULTURAL BUILDING***, the structure must be located outside of a residential area, as defined by UCA § 58-56-4(1), as amended.

AGRICULTURAL PRODUCTS. Products intended for direct human or animal consumption, such as vegetables, fruits, dairy products, eggs, grains, meat, poultry, fish, honey, hay and wool.

AGRICULTURE. The production, keeping or maintenance for sale of plants and animals useful to man, including crops and products such as vegetables, fruit trees, hay, sod, grain, honey, milk, cheese and any other agricultural or horticultural products and their storage, the raising thereon of farm poultry and farm livestock and animals, such as cattle, sheep, goats or animals of the Bovinae family; all horses, mules or animals of the Equine family; all pigs, swine or animals of the Suinae family; fur bearing animals, bees and ostriches, rhea and emu; trees and forest products; wholesale fruits of all kinds, including grapes, nuts and berries; wholesale vegetables; wholesale nursery, floral, ornamental and greenhouse products; or lands devoted to a soil conservation or forestry management program. ***AGRICULTURE*** does not include concentrated animal feeding operations, as defined by the Administrative Rules of the State of Utah, R317-8-3.5(5)(a) and (b), as amended, and subject to the Utah Pollutant Discharge Elimination System (UPDES).

ALTERATION. Any change, addition or modification in construction of a building or structure.

APPEAL AUTHORITY. The person, board, commission, agency or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

APPLICANT. The owner of land or the owner's authorized representative.

APPLICATION/LAND USE APPLICATION. A written request for an approval and completed in a manner prescribed by this chapter for review and decision by a land use authority.

APPLICATION, COMPLETE. An application that includes all information requested on the appropriate form and payment of all applicable fees.

APPLICATION, INCOMPLETE. An application that lacks information requested on the appropriate form or lacks the payment of all applicable fees.

AS-BUILT PROFILE. A map or drawing which depicts a vertical section of a road, street, curb, conduit or other physical feature as it has been actually constructed.

AUTOMOTIVE CARE. An establishment providing motor vehicle repair or maintenance services. Typical uses include businesses engaged in the following activities: electronic tune-ups; brake repairs (including drum turning); air conditioning repairs; generator and starter repairs; tire repairs; front-end alignments; battery recharging; lubrication; and sales, repair and installation of minor parts and accessories, such as tires, batteries, windshield wipers, hoses, windows and the like.

AVERAGE PERCENT OF SLOPE. An expression of rise or fall in elevation along a line perpendicular to the contours of the land, connecting the highest point of land to the lowest point of land within an area or within a lot. A vertical rise of 100 feet between two points 100 feet apart, measured on a horizontal plane, is a 100% slope.

BASEMENT. The portion of a building between floor and ceiling which is partly below and partly above grade, located such that the vertical distance from grade to floor below is more than the vertical distance from grade to ceiling.

BED AND BREAKFAST INN. A residential structure offering transient lodging accommodations where meals may be provided. A ***BED AND BREAKFAST INN*** shall have no more than five guest rooms and shall meet all applicable Health, Safety and Building Codes.

BEGINNING OF CONSTRUCTION. The clearing or grading of the land.

BOARD OF ADJUSTMENT. The Board of Adjustment of Boulder Town, Utah.

BORROW PIT. An area used for excavating sand or fill material for transport to another location. Considerations for approving a conditional use permit should include, but are not limited to, the following general concerns: hours of operation; noise levels; traffic issues; blowing soil or sand; wind speed during operation; watering; restoration/revegetation; viewshed; and neighbor comments. The permit will be issued for a period of one year, with conditions reviewed annually. Any non-emergency, fee-based transfer of fill dirt from one property to another owner's property will be considered a commercial venture and require appropriate business licensing.

BUILDABLE AREA. The portion of a lot remaining after required yards have been provided; except that, land which is considered sensitive land or that has an average grade exceeding 15% shall not be considered ***BUILDABLE AREA*** unless it is approved by conditional use permit for construction after study by a geologist, soils engineer or sanitarian as required by the Planning Commission.

BUILDING. A structure having a roof supported by columns or walls for housing, shelter or enclosure of persons, animals or property of any kind.

BUILDING CODE. The International Building Code, as adopted by the town.

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.

BUILDING OFFICIAL. The person responsible for performing building inspections as required by the adopted Building Code and other applicable codes.

BUILDING, HEIGHT OF. The vertical distance from the average finished grade surface to the highest point of the building roof or coping.

BUILDING, PRINCIPAL. A building in which is conducted the principal use of the lot on which it is located. In a residential zoning district, any dwelling is deemed the ***PRINCIPAL BUILDING*** on the lot on which it is situated.

CAMPGROUND. Any area of land upon which two or more campsites are located, established, or maintained for short-term occupancy by a tent or recreational vehicle for recreational or vacation purposes. Campgrounds may also include detached cabins. Campgrounds are a commercial use.

CARPORT. A private garage not completely enclosed by walls or doors. For the purposes of this chapter, a ***CARPORT*** shall be subject to all the regulations prescribed for a private garage.

CEMETERY. A place designated for the burial or keeping of the remains of the dead, whether human or animal, including crematories and mausoleums and meeting all applicable local, state and federal requirements and regulations.

CERTIFICATE OF OCCUPANCY. A certificate issued by the town after final inspection and upon a finding that the building, structure or development complies with all provisions of the applicable ordinances, codes, permits, requirements and approved plans.

CHARTER SCHOOL. Includes:

(1) An operating charter school;

(2) A charter school applicant that has its application approved by a chartering entity in accordance with UCA Title 53A, Chapter 1a, Part 5, the Utah Charter Schools Act; and

(3) An entity who is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

CHIEF EXECUTIVE OFFICER. The Mayor of Boulder Town, Utah.

CHURCH. A facility principally used for people to gather for public worship, religious training or other religious activities. One dwelling for the housing of the pastor or similar leader of the ***CHURCH*** and family will be considered as incidental and a part of this use.

COMMERCIAL. The generic term this chapter uses to refer to the conduct of business, including, but not limited to, retail sales, the provision of services, and industrial activities. By itself, this term tells one nothing about which commercial uses are or are not permitted. Please refer to the table of uses and standards established by §§ 153.115 et seq. Standards that apply to “commercial” uses apply to all of them, except when a specific use is specifically exempted. This term specifically encompasses more specific terms that were used in this chapter prior to the 2021 amendments, including automotive care, commercial sales and services, lodging, professional offices, recreation facilities, restaurants, and veterinary clinics.

COMMERCIAL SALES AND SERVICES. An activity involving the sale of goods and services, including the sale of personal or household goods, for profit. ***COMMERCIAL SALES AND SERVICES*** include tradesman’s shops and construction and contractor services. No ***COMMERCIAL SALES AND SERVICES*** establishment shall include or provide “drive-up” windows or “drive through” facilities.

COMMISSION. The Planning Commission of Boulder Town, Utah.

COMMON OPEN SPACE. A parcel of land, an area of water, or a combination of land and water within a site designed and intended primarily for the use or enjoyment of residents, occupants and owners within that development.

COMMUNITY MARKET. A community market provides a venue for local growers, and food, craft and service artisans to display and sell items to the public.

COMPATIBLE. Compatible does not mean identical or even nearly the same. That two (2) things are compatible means that they are able to exist together without conflict, that they are reconcilable.

CONCRETE PLANT ASSOCIATED WITH AN EXISTING GRAVEL PIT. A facility, with associated loading and unloading areas, materials, storage areas and equipment, for the manufacture, transfer, storage and distribution of concrete and concrete related products and located within the boundaries of a gravel pit.

CONDITIONAL USE. A use of land that, because of its unique characteristics or potential impact on the town, surrounding neighbors or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts; a use of land for which a conditional use permit is required pursuant to this chapter.

CONSTITUTIONAL TAKING. A governmental action that results in a taking of private property so that compensation to the owner of the property is required by:

(1) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(2) Utah Constitution Article I, § 22.

CONSTRUCTION PLAN. The maps or drawings accompanying an application that show the specific location and design specifications of improvements to be installed in accordance with the requirements of approval.

CONTIGUOUS. The touching or overlap of two or more use district boundaries or property lines.

COUNCIL. The duly elected Town Council of Boulder Town, Utah.

COVERAGE, BUILDING. The percent of the total site area covered by buildings.

CULINARY WATER AUTHORITY. The department, agency or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

DAY CARE/PRESCHOOL CENTER. Any facility, at a nonresidential location, operated by a person qualified by the state, which provides children with day care and/or preschool instruction as a commercial business and complying with all state standards and licensing.

DAY TREATMENT FACILITY/PROGRAM. Specialized treatment for less than 24 hours a day, for four or more persons who are unrelated to the owner or provider and is established and operated as required by the standards and rules, as adopted by the Utah State Department of Human Services, governing the licensure of ***DAY TREATMENT PROGRAMS***. A ***DAY TREATMENT FACILITY/ PROGRAM*** provides services to individuals who have emotional, psychological, developmental, physical or behavioral dysfunctions, impairments, or chemical dependencies. ***DAY TREATMENT*** is provided in lieu of, or in coordination with, a more restrictive residential or inpatient environment or service in accordance with UCA § 62A-2-101.5, as amended.

DISPOSAL. The discharge, deposit, injection, dumping, spilling, leaking or placing of any solid or hazardous waste into or on any land or water so that such waste or any constituent thereof may enter the environment, be emitted into the air or discharged into any waters, including ground waters.

DRIVEWAY. A privately owned access route serving a single lot.

DUPLEX. A single building having two separate dwelling units.

DWELLING. Any building or portion thereof designed or used as the more or less permanent residence or sleeping place of one or more persons, but not including a tent, recreational coach, hotel, motel, hospital or nursing home.

EASEMENT. The portion of a lot or lots reserved for present or future use by a person or agency other than the legal owner(s) of said property(ies). The ***EASEMENT*** may be for use under, on or above said lot or lots.

ESSENTIAL FACILITIES. Utilities or sanitary and public safety facilities. All proposed residential or commercial buildings or uses shall be connected to an approved individual septic system.

EXISTING GRAVEL PIT. An open excavation or pit from which gravel or other stones or earthen materials have been obtained by digging, cutting, crushing or blasting, and which existed prior to the adoption of the zoning ordinance, as a legally authorized use.

FACADE. Any portion of a building that faces or is visible from a public way or from a parking lot. Includes walls and all apertures, also any visible element of the roof.

FACILITY. A structure or place that is built, installed or established to serve a particular purpose.

FAMILY. One or more persons occupying a dwelling unit and living as a single housekeeping unit, as distinguished from a group occupying a bed and breakfast, guest ranch, hotel, motel or resort, as herein defined.

FARMSTAND. Farmstands should be accessory to onsite agriculture operations. The intent is to encourage the sale of locally grown fresh produce, not the establishment of traditional retail stores or convenience markets in agricultural and residential zones. Food sales at a ***FARM STAND*** must be limited to the following:

(1) Produce and shell eggs; and

(2) Value added and farm products that were grown or produced in close proximity to the farm stand.

FIRE CODE. The fire codes currently adopted into the UCA §§ 15A-1-401*et seq.* or its successors.

FLOOD HAZARD. A hazard to land or improvements due to inundation or overflow water having sufficient velocity to transport or deposit debris, scour the surface soil, dislodge or damage buildings, or erode the banks of watercourses.

FLOOR AREA. Area included within surrounding walls of a building or portion thereof exclusive of vents, shafts and courts.

FRONTAGE. All property fronting on one side of the street, highway or private road.

FRONTAGE, BLOCK. All property fronting on one side of the street between intersecting or intercepting streets, or between a street and a right-of-way, waterway, end of dead-end street or political subdivision boundary measured along the street line. An intercepting street shall determine only the boundary of the frontage on the side of the street that it intercepts.

GEOLOGIC HAZARD. A hazard inherent in the crust of the earth, or artificially created, which is dangerous or potentially dangerous to life, property or improvements due to the movement, failure or shifting of the earth.

GOVERNING BODY. The elected legislative body of the town.

GRADING. Any excavating, filling or combination thereof. ***GRADING*** is regulated by the appendix chapter titled "Excavation and Grading" of the most current edition of the International Building Code (IBC).

GROUP CHILD CARE. The care of children who are family and non-family members in an occupied dwelling, and complying with all state standards and licensing, by the resident of that dwelling at least twice a week for more than three children, but fewer than 17 children. The total number of children being cared for shall include children under the age of four years residing in the dwelling, who are under the supervision of the provider during the period of time the childcare is provided. There shall be at least two care givers at all times when there are nine or more children present.

GUEST RANCH. A guest ranch is an accessory use that provides supplemental income to a working ranch. A guest ranch may be established only in conjunction with an existing, continuing livestock operation that qualifies as a farm use under the Utah Farmland Assessment Act Standards of Practice. A guest ranch includes overnight guest lodging units, recreational activities that are on-site or originate on-site, and food services for guests only.

HAZARDOUS SUBSTANCES. As defined in the Utah Solid and Hazardous Waste Rules, Utah Administrative Code R315.

HAZARDOUS WASTE. As defined in the Utah Solid and Hazardous Waste Rules, Utah Administrative Code R315.

HOME BUSINESS. An industrial or commercial activity that is conducted in a dwelling or in an accessory structure that is appurtenant to a dwelling, and that complies with the standards of §§ 153.400 et seq.

HOME CHILD CARE. Note that Utah State regulations provide the following exemptions for child care: license or certificate and background check not required. The following types of care do not require a child care license or certificate form, or the submission of background check documents to the Department: (a) care provided on no more than two days during any calendar week; (b) care provided in the home of the provider for less than four (4) hours per day, or for fewer than five(5) unrelated children in the home at one time; (c) care provided in the home of the provider on a sporadic basis only.

HOME OCCUPATION, MINOR. An activity carried out for gain by a resident and conducted entirely within the resident's home and/or a separate building of no more than 750 square feet and is clearly incidental and accessory to the residential use of the dwelling or property; and, provided that, the home occupation does not change the residential character of the residence and does not result in noise, vibration, light, odor, dust, smoke or other air pollution noticeable at or beyond the property line, does not include any outside storage of goods, materials or equipment, has no signage, complies with all required federal and state licensing requirements, complies with all required local licensing requirements.

HOME PRESCHOOL. A preschool program complying with all state standards and licensing for non-family members in an occupied dwelling, by residents of that dwelling, in which lessons are provided for not more than six children for each session of instruction. Sessions shall last for not more than four hours and shall not overlap. Individual children may attend only one preschool session in any 24-hour period.

IDENTICAL PLANS. Building plans submitted to the town that are substantially identical to building plans that were previously submitted to and reviewed and approved by the Building Official and describe a building that is:

(1) Located on land zoned the same as the land on which the building described in the previously approved plans is located; and

(2) Subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans.

ILLEGAL BUILDING/STRUCTURE. A building or structure, or portion thereof, established without securing the necessary approvals, permits or licenses, as required by this chapter, the adopted Building Code, or their prior enactments.

ILLEGAL LOT. A lot created that has not received the necessary approvals, permits or licenses, as required by the town's land use ordinances.

ILLEGAL USE. A use established without receiving the necessary approvals, permits or licenses, as required by the town's land use ordinances.

IMPORTATION. The act or business of bringing in wastes, substances or materials from a county, state or country outside the boundaries of the town.

INDUSTRIAL. The generic term this chapter uses to refer to the processing, manufacturing, assembly, and/or distribution of goods or products and/or the collection and processing of wastes. By itself, this term tells one nothing about which industrial uses are or are not permitted. Please refer to the table of uses and standards established by §§ 153.115 et seq. Standards that apply to "industrial" uses apply to all of them, except when a specific use is specifically exempted. For the purposes of this chapter, industrial uses are regulated as commercial uses. The raising of crops or livestock is not industrial for the purposes of this chapter.

INFECTIOUS WASTE. A solid waste that contains or may be reasonably expected to contain pathogens of sufficient virulence and quantity that exposure to the waste by a susceptible host could result in an infectious disease.

INHERENTLY WASTE-LIKE. Materials include those listed in 40 C.F.R. § 261.2(c), UHWMR 450-2.1-1 and material that

is ordinarily disposed of, burned or incinerated or that contains toxic constituents which are not ordinarily found in raw materials or products for which the materials substitute and are not used or reused during the recycling process and which may pose a substantial hazard to human health and the environment when recycled.

INTENSITY. The concentration of activity such as combination of the number of people, cars, visitors, customers, hours of operation, outdoor advertising, numbers of buildings, numbers of livestock and the like.

JUNK. Any old or scrap copper, brass, rope, rags, batteries, paper, trash, wood and rubber debris, waste or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel and other old or scrap ferrous or nonferrous material.

LANDSCAPING. Any combination of living plants such as trees, shrubs, plants, ground cover or turf, and structural features such as walkways, fences, benches, works of art, reflective pools, fountains, or the like. Landscaping also includes irrigation systems, mulches, soil preparation and treatment, revegetation, and or the preservation, protection and replacement of existing vegetation. Landscaping may be irrigated, a xeriscape, or some combination of both. See ***WATER WISE LANDSCAPING***.

LAND USE. The manner in which land is occupied or used.

LAND USE APPLICATION. An application required by the town's land use ordinances, and required to initiate the review procedures for any required approval.

LAND USE APPROVAL. Any authorization received from a land use authority that permits the commencement of a development activity.

LAND USE AUTHORITY. A person, board, commission, agency or other body designated by the Council to act on a land use application.

LAND USE ORDINANCE. A planning, zoning, development or subdivision ordinance of the town, including this chapter, but does not include the town's General Plan or any element thereof.

LAND USE PERMIT. A permit issued by a land use authority.

LEGAL BUILDING/STRUCTURE. A building or structure, or portion thereof, established after receiving the necessary approvals, permits or licenses, as required by the land use ordinances and complying with the requirements of the land use ordinances and Building Code.

LEGAL LOT OF RECORD. Any lot, parcel or tract of land that existed, as recorded in the office of the Garfield County Recorder, with a separate property identification number as provided by the office of the County Recorder and office of the County Assessor, prior to the date of the adoption of the first town subdivision ordinance, and all lots, parcels and tracts of land that were legally created pursuant to the subdivision requirements of the town's land use ordinances and the laws of the state after the date of the adoption of the first town subdivision ordinance.

LEGAL USE. A use complying with the requirements of this chapter.

LEGISLATIVE BODY. The duly elected Town Council of Boulder Town, Utah.

LICENSED FAMILY CHILD CARE. The care of children who are non-family members in an occupied dwelling. Utah State license required: a person or persons shall be licensed under this rule if they provide child care: (a) in the home where they reside; (b) in the absence of the child's parent; (c) for five (5) to sixteen (16) unrelated children; (d) for four (4) or more hours per day; (e) on a regularly scheduled, ongoing basis; and (f) for direct or indirect compensation.

LIGHT MANUFACTURING. The assembly, fabrication or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare or health or safety hazards outside of the building or lot where such assembly, fabrication or processing takes place, where such processes are housed entirely within a building, or where the area occupied by outdoor storage of goods and materials used in such processes does not exceed 25% of the floor area of all buildings on the property. ***LIGHT MANUFACTURING*** generally includes processing and fabrication of finished products, predominantly from previously prepared materials and includes processes that do not require extensive floor areas or land areas.

LODGING. A building or group of buildings containing guest rooms, used or intended wholly or in part for the accommodation of transients visitors. Lodging places may also provide additional services, such as restaurants, meeting rooms, entertainment, and recreational facilities. Bed and breakfast inns and short term rentals are separately defined and regulated.

LOT, CORNER. A lot abutting on two intersecting or intercepting streets, where the interior angle of intersection or interception does not exceed 135 degrees.

LOT, COVERAGE. The percentage of the total area of a lot or parcel which is occupied by all buildings, covered structures, or other impervious surfaces.

LOT, DEPTH. For lots having front and rear lot lines which are parallel, the shortest horizontal distance between such lines; for lots having front and rear lot lines which are not parallel, the shortest horizontal distance between the midpoint of the front lot line and the midpoint of the rear lot line; and for triangular shaped lots, the shortest horizontal distance between the front lot line and a line within the lot, parallel with and at a maximum distance from the front lot line having a length of not less than ten feet.

LOT, ILLEGAL. A lot that has not received the necessary approvals, permits or licenses, as required by the town's land use ordinances and state laws, or their prior enactments.

LOT, LEGAL. A lot that has received the necessary approvals, permits or licenses, as required by the town's land use ordinances, or their prior enactments.

LOT, LINE. Any line bounding a lot.

LOT, NON-COMPLYING (LEGAL). A lot, parcel or tract of land that:

(1) Legally existed before its current zoning designation;

(2) Has been shown as a separate lot, parcel or tract continuously on the records of the County Recorder as an independent parcel since the time the zoning requirements governing the lot, parcel or tract changed; and

(3) Because of subsequent zoning changes does not now conform with the requirements of the zoning district in which the lot, parcel or tract is located.

LOT, NON-COMPLYING (ILLEGAL). A lot, parcel or tract of land that:

(1) Was created without receiving the necessary approvals, permits or licenses, as required by the town's land use ordinances and state laws, and their prior enactments; and

(2) Does not conform with the requirements of the zoning district in which the lot, parcel or tract is located.

LOT, OF RECORD. A lot that is part of a subdivision, the plat of which has been recorded in the office of the County Recorder; or a lot, parcel or tract of land, the deed of which has been recorded in the office of the County Recorder.

LOT, RIGHT-OF-WAY. A strip of land connecting a lot to a street for use as private access to that lot.

LOT, WIDTH. For rectangular lots, lots having side lot lines not parallel and lots on the outside of the curve of a street, the distance between side lot lines measured at the required minimum front yard line on a line parallel with the street or long chord; and for lots on the inside of the curve of a street, the distance between side lot lines measured 30 feet behind the required minimum front yard line on a line parallel with the street or long chord.

LOT LINE, FRONT. The boundary of a lot which separates the lot from the street; and in the case of the corner lot, the ***FRONT LOT LINE*** is the shorter of the two lot lines separating the lot from the street; except that, where these lot lines are equal or within 15 feet of being equal, either lot line may be designated the ***FRONT LOT LINE***, but not both.

LOT LINE, REAR. The boundary of a lot which is most distant from, and is, or is most nearly, parallel with the front lot line; except that, in the absence of a rear lot line as is the case of the triangular shaped lot, the ***REAR LOT LINE*** may be considered as a line within the lot, parallel with and at a maximum distance from the front lot line, having a length of not less than ten feet.

LOT LINE, SIDE. The boundary of a lot that is not a front lot line or a rear lot line.

LUDMA. The Municipal Land Use, Development and Management Act, as provided by UCA Chapter 10-9a, as amended.

MANUFACTURED HOME. A transportable, factory-built housing unit constructed on or after June 15, 1976, according to the Federal Home Construction and Safety Standards Act of 1974 (HUD Code), in one or more sections, and when erected on site, the home must be at least 20 feet in width at the narrowest dimension, have exterior and roofing materials acceptable to the International Building Code (IBC) and be located on a permanent foundation and connected to the required utilities, including plumbing, heating, air conditioning and electrical systems. A ***MANUFACTURED HOME*** shall be identified as real property on the property assessment rolls of Garfield County. All manufactured homes constructed on or after June 15, 1976, shall be identified by the manufacturer's data plate bearing the date the unit was manufactured and a HUD label attached to the exterior of the home certifying the home was manufactured to HUD standards.

MINIMUM LOT SIZE. The smallest lot or parcel on which any principal use will be permitted. §153.199 of this Code allows the Town to approve smaller lots separately demarked for open space protection or common use. Section 153.267 allows for exceptions for existing small lots.

MOBILE FOOD BUSINESS. A "mobile food business" serves food and/or beverages from a self-contained unit either motorized or in a trailer on wheels, and conducts all or part of its operation on premises other than its own and is readily movable, without disassembling, for transport to another location.

MOBILE HOME. A transportable structure in one or more sections with the plumbing, heating, and electrical systems contained within the unit, which when erected on a site, may be used with or without a permanent foundation as a family dwelling. See UCA § 57-16-3.

NATURAL WATERWAYS. Those areas varying in width along streams, creeks, gullies, springs, faults or washes which are natural drainage channels as determined by the Zoning Administrator, and in which areas no buildings shall be constructed.

NOMINAL FEE. A fee that reasonably reimburses the town only for time spent and expenses incurred in:

(1) Verifying that building plans are identical plans; and

(2) Reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

NON-COMPLYING STRUCTURE. A structure that:

(1) Legally existed before its current land use designation; and

(2) Because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions or other regulations, excluding those regulations which govern the use of land.

NON-CONFORMING USE. A use of land that:

(1) Legally existed before its current land use designation;

(2) Has been maintained continuously since the time the land use ordinance governing the land changed; and

(3) Because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

NUISANCE. Any use or activity which emits noise, smoke, dust, odor or vibration in amounts sufficient to substantially depreciate values of surrounding buildings or lands or a use or activity which substantially deprives the owners of adjoining property of a property right.

OFFICIAL MAP. A map adopted by the Council and recorded in the County Recorder's office that:

(1) Shows actual and proposed rights-of-way, centerline alignments and setbacks for highways and other transportation facilities;

(2) Provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(3) Has been adopted as an element of the town's General Plan.

OFFICIAL ZONING MAP/ZONING DISTRICTS MAP. The map adopted by the Council showing the geographic location of zoning districts.

OPEN SPACE. Different, separate types dependent upon occupancy, use and control. All types of***OPEN SPACE*** are referred to collectively as ***OPEN SPACE*** in this chapter. Any of these types of***OPEN SPACE*** could be public or private open space. They shall include the following.

(1) ***AGRICULTURAL OPEN SPACE.*** Open lands left undisturbed or dedicated primarily as usable agricultural lands for farming and ranching purposes.

(2) ***LANDSCAPED OPEN SPACE.*** Landscaped areas free of building, parking lots and driveways.

(3) ***NATURAL OPEN SPACE.*** Natural, undisturbed areas with little or no improvements or irrigation.

(4) ***RECREATIONAL OPEN SPACE.*** Parks and areas of active recreation use, to include trails and all uncovered recreational facilities.

OPERATING HOURS. Operating hours include all hours a business is in operation, not just those when it is open to the public.

OUTPATIENT TREATMENT FACILITY/PROGRAM. Individual, family or group therapy or counseling designed to improve and enhance social or psychological functioning of those consumers whose physical or emotional status allows them to continue functioning in their usual living environment in accordance with UCA § 62A-2-101.15, as amended, and as required by the standards and rules, as adopted by the Utah State Department of Human Services, governing the licensure of ***OUTPATIENT TREATMENT PROGRAMS***. An ***OUTPATIENT TREATMENT FACILITY/PROGRAM*** shall serve consumers who require less structure than offered in day treatment facility/program. Consumers are provided treatment as often as determined and noted in the treatment plan.

PARKING LOT. An open area, other than a street, used for the parking of more than four automobiles and available for public use, whether free, for compensation or accommodation for clients or customers.

PERMITTED USE. A use of land for which no conditional use permit is required.

PLANNING COMMISSION. The Planning Commission of Boulder Town, Utah.

PLAT. A map or other graphical representation of lands being laid out and prepared in accordance with UCA §§ 10-9a-603, 17-23-17 or 57-8-13, as amended.

PLAT, FINAL. A drawing prepared in accordance with the land use ordinances showing the final design of a land division and complying with all standards and requirements of best surveying practice and in a form required by the County Recorder's office for recordation.

PLAT, PRELIMINARY. A drawing prepared in accordance with the land use ordinances showing the design of a proposed land division.

PLOT PLAN. A plat of a lot, drawn to scale, showing its actual measurements, the size and location of any existing buildings or buildings to be erected, the location of the lot in relation to abutting streets and such other information as may be required by the town's Planning Commission.

PRIMARY DWELLING. A single-family dwelling that:

(1) Is detached; and

(2) Is occupied as the primary residence of the owner of record.

PRINCIPAL USE. The primary purpose or function for which a parcel is used.

PROFESSIONAL OFFICES. A building for the professions including, but not limited to, government, physicians, dentists, lawyers, realtors, architects, engineers, artists, musicians, designers, teachers, accountants and others who, through training, are qualified to perform services of a professional nature and where no storage or sale of merchandise exists.

PROPOSED (FUTURE) LAND USE MAP. A map designed to show the acceptable or anticipated change of land use.

PUBLIC. That which is under the ownership or control of the United States Government, Utah State or any subdivision thereof, Garfield County or Boulder Town (or any departments or agencies thereof).

PUBLIC HEARING. A hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

PUBLIC IMPROVEMENT. Any street dedications, installations of curb, gutter, sidewalk, road base and asphalt, water, sewer and storm drainage facilities, or other utility or service required to provide services to a lot, parcel, building or structure.

PUBLIC MEETING. A meeting that is required to be open to the public under UCA Title 52, Chapter 4, the Open and Public Meetings Act.

PUBLIC USES AND UTILITIES. A use operated exclusively by a public body or quasi-public body, such use having the purpose of serving the public health, safety or general welfare, and including recreational facilities, administrative and service facilities, and public utilities, including water and sewer facilities, gas and electricity facilities, recycling and waste management, cable television facilities and telecommunications facilities, but excluding prisons. Proposed public facilities, including significant changes in or additions to existing facilities require a CUP.

QUASI-PUBLIC USE. A use operated by a private non-profit, educational, religious, recreational, charitable or philanthropic institution, such use having the purpose primarily of serving the public, such as churches, private schools and universities and similar uses.

RECORD OF SURVEY MAP. A map of a survey of land prepared in accordance with UCA § 17-2317, as amended.

RECREATIONAL VEHICLE OR RV. A vehicular camping unit designed as temporary living quarters for recreational, camping, travel, or seasonal use that either has its own motive power or is mounted on or towed by another vehicle. Recreational vehicles include, but are not limited to, camping trailers, fifth wheel trailers, motor homes, park trailers, travel trailers, and truck campers that are in operating condition.

RELATIVE STANDARD. A standard adopted in §§ 15.400 et seq. or153.415 et seq. on which the performance of a proposed home business or commercial development receives a point score as part of the Planning Commission's review of the application for a CUP. These standards are used to encourage or discourage certain development practices that are not absolute requirements, but part of the trade-offs that must be considered. A proposed development must receive a score of zero or better on the relative standards in order to obtain a CUP.

RESIDENTIAL DAY CARE CERTIFICATE. The care for children who are family and non-family members in an occupied dwelling, and complying with all State standards and licensing. Utah State certificate required: a person or persons shall be certified as a residential child care provider under this rule if they provide child care: (a) in the home where they reside; (b) in the absence of the child's parent; (c) for five (5) to eight (8) unrelated children; (d) for four (4) or more hours per day; (e) on a regularly scheduled, ongoing basis; and (f) for direct or indirect compensation.

RESIDENTIAL FACILITY FOR ELDERLY PERSONS. A facility as defined by UCA § 10-9a-103, as amended.

RESIDENTIAL FACILITY FOR PERSONS WITH A DISABILITY. A residential dwelling (for four or more persons) as licensed by the Department of Human Services, Division of Services for People with Disabilities. "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such impairment or being regarded as having such impairment (UCA § 57-21-2(9)(a), as amended). "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in § 102 of the Controlled Substances Act, 21 U.S.C. § 802 (UCA § 57-21-2(9)(b), as amended). "Disability" does not include placement in lieu of confinement, rehabilitation or treatment in a correctional facility.

RESIDENTIAL SHORT-TERM RENTALS (RSTR). Occupancy of a dwelling on a single-family legal lot of record by a transient guest(s) renting the entirety of the dwelling, or any portion thereof, for any period between one to twenty nine (29) consecutive nights pursuant to a conditional use permit (CUP).

RESTAURANT. An establishment where food and drink is prepared, served and consumed within the building. ***RESTAURANT*** does not include uses that are identified as take-out or drive-in restaurants; where food is served primarily in

paper, plastic or other disposable containers; where customers may remove such food or beverage products from the food service establishment for consumption; and the establishment is required by contractual or other arrangements to operate with standardized menus, ingredients, architecture, decor, uniforms or similar standardized features.

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.

RIGHT-OF-WAY (LOT). A strip of land not less than 16 feet in width connecting a lot to a street for use as private access to that lot.

ROAD. A public or private thoroughfare that affords a means of access to abutting property.

SANITARY SEWER AUTHORITY. The department, agency or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

SCHOOL. Any building or part thereof that is designed, constructed or used for education or instruction by a public or private organization in any branch of knowledge, but excluding preschool center.

SETBACK. The required minimum distance between the building and the related front, side or rear lot line.

SIGN. Any device for visual communication, including any structure or natural object or part thereof that is used for the purpose of bringing the subject thereof to the attention of the public, but not including, any flag, badge or insignia of any government or governmental agency, or any civic charitable, religious, patriotic, fraternal or similar organization.

(1) ***A-FRAME SIGN.*** Any sign or structure composed of two sign faces mounted or attached back-to-back in such a manner as to form a triangular vertical cross-section.

(2) ***ALTERED.*** A sign that is raised, moved, extended or enlarged.

(3) ***ANIMATED SIGN.*** Any sign which is designed and constructed to give its message through movement or semblances of movement created through a sequence of progressive changes of parts, lights or degree of lighting; exhibits a string of lights for the purpose of attracting attention; or contains flashing, blinking, moving or glaring illumination.

(4) ***BACK-LIGHTED SIGNS.*** Any sign that is illuminated by a light source that emanates from behind the sign face.

(5) ***BILLBOARD.*** A structure designed, intended or used for advertising a project, property, business, entertainment, service, amusement or the like and not located on the premises where the matter advertised is available or occurs.

(6) ***BUILDING.*** Any structure used or intended to be used for the shelter or enclosure of persons, animals or property.

(7) ***BUILDING FACE.*** The visible outer surface of a main exterior wall of a building.

(8) ***BUILDING SIGN.*** A sign attached or painted on the exterior walls of a building.

(9) ***CANOPY*** or ***MARQUEE.*** Any roofed structure attached to and supported by a building and projecting out from the building wall.

(10) ***CO-LOCATED DIRECTIONAL SIGN.*** A sign, located at a directional sign location and provided to allow the for directional information for business located within the town, which does not exceed five feet in length by 16 inches in width and where the total area of all co-located directional signs does not exceed 36 square feet at one directional sign location.

(11) ***DIRECTIONAL SIGN.*** A sign, not exceeding 36 square feet, and provided to allow directional information for business located within the town.

(12) ***DIRECTIONAL SIGN LOCATION.*** A location provided for the establishment of directional signs and limited to the corners of the intersection of Highway 12 and the Burr Trail. The total area of all directional signs allowed at each corner shall not exceed 36 square feet.

(13) ***DIRECTORY SIGN.*** A sign erected on a building wall at the ground floor level and containing name identification for more than one activity or business located on a single premises.

(14) ***DOUBLE-FACED SIGN.*** A free-standing sign with two identical, opposing sign faces shall count as one free-standing sign.

(15) ***ERECT.*** To build, construct, place, relocate, enlarge, substantially alter, attach, suspend, paint, post or display. Normal maintenance, including refinishing, is not included in this definition provided the sign copy is not changed or altered.

(16) ***FREE-STANDING SIGN.*** Any sign that is standing on or erected into the ground. Such signs are usually supported from the ground by one or more posts or similar uprights with or without braces.

(17) ***ILLEGAL SIGN.*** Any sign which does not conform to the requirements of this chapter and was constructed or installed without the necessary approvals, permits or licenses required by this chapter or prior enactments.

(18) ***LEGAL SIGN.*** A sign that conforms to the requirements of this chapter and has received all necessary approvals, permits or licenses, as required by this chapter, or prior enactments.

(19) ***OFF-PREMISES SIGN.*** Any sign which advertises products, services or business establishments which are not located, conducted, manufactured or sold upon the same premises upon which the sign is erected.

(20) ***ON-PREMISES SIGN.*** Any sign which advertises products, services or business establishments which are located, conducted, manufactured or sold upon the same premises upon which the sign is erected.

(21) ***OUTDOOR ADVERTISING STRUCTURE.*** A structure erected and maintained for outdoor advertising purposes upon which a poster, bill, printing or painting may be placed to advertise products, goods, services or business establishments for those located, conducted, manufactured or sold upon the premises on which the structure is erected.

(22) ***PARAPET SIGN.*** A sign located on any extension of the walls of the building above the connection of the roof structure to the building walls.

(23) ***PERSON.*** Includes a firm, association, organization, partnership, trust company or corporation, as well as individual, but does not include a governmental unit.

(24) ***PREMISES.*** The parcel of property on which the business is located.

(25) ***PROJECTING SIGN.*** An outdoor sign which is attached to a building or structural wall at an angle.

(26) ***PROPERTY.*** Land or real estate, with or without structures; not goods or services.

(27) ***PUBLIC WAY*** or ***PUBLIC RIGHT-OF-WAY.*** Any way designed for vehicular or pedestrian use and maintained with public funds.

(28) ***ROOF SIGN.*** Any sign which is erected upon or over the roof or over a parapet of any building or structure.

(29) ***SIGN.*** A sign is an object, device or structure or part thereof situated outdoors or displayed in a window visible from a public way, free standing or attached, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, advertising flags, fixtures, colors, illuminations or projected images.

(30) ***SIGN AREA.*** The area which encompasses the sign face, including copy, insignia, background and borders.

(31) ***SIGN FACE.*** The surface of a sign visible from the public way. Each***SIGN FACE*** counts as one sign. Exception: see ***DOUBLE-FACED SIGN***.

(32) ***TEMPORARY SIGN.*** A sign or advertising display intended to be displayed for a maximum period of 120 days.

(33) ***VISIBLE.*** Capable of being seen without visual aid by a person of normal visual acuity.

(34) ***WALL SIGN.*** Any sign posted, painted upon or otherwise affixed to a wall, fascia, canopy or marquee.

(35) ***WIND SIGN.*** Any propeller, whirligig, pennant, flag, banner or similar commercial device which is designed to flutter, rotate or display other movement under the influence of wind.

(36) ***WINDOW SIGN.*** A sign fastened to, or painted on the window of a building or structure in such a manner that the window becomes the supporting structure for, or forms the background surface of, the sign.

SINGLE-FAMILY DWELLING. A building arranged or designed to be used for and containing one dwelling unit. An internal accessory dwelling unit may be included as part of any single-family dwelling, in accord with state law and all applicable requirements of this chapter.

SITE PLAN. A plan required by and providing the information required by this chapter.

SLOPE. The level of inclination of land from the horizontal determined by dividing the horizontal run of the slope into the vertical rise of the same slope and converting the resulting figure into a percentage value. For purposes of regulation and measurement, ***SLOPES*** must cover at least 25 feet vertically and 50 feet horizontally.

SOLID WASTE.

(1) As per UCA § 19-6-102(16), any garbage, refuse, sludge, including sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, or other discarded material, including solid, liquid, semi-solid or contained gaseous material resulting from industrial, commercial, mining or agricultural operations and from community activities, but does not include solid or dissolved materials in domestic sewage or in irrigation return flows or discharges for which a permit is required under UCA Title 19, Chapter 5, Water Quality Act, or under the Water Pollution Control Act, 33 U.S.C. §§ 1251 et seq. A ***SOLID WASTE*** is considered a hazardous waste if it is listed as hazardous or if it exhibits any one of the hazardous characteristics set forth hereafter. “Hazardous waste” (as per UCA § 19-6-102(9)) means a solid waste or combination of solid wastes which, because of its quantity, concentration or physical, chemical or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

(2) ***SOLID WASTE*** does not include any of the following wastes unless the waste causes a public nuisance or public health hazard or is otherwise determined to be a hazardous waste:

(a) Certain large volume wastes, such as inert construction debris used as fill material;

(b) Drilling muds, produced waters and other wastes associated with the exploration, development or production of oil, gas or geothermal energy;

(c) Fly ash waste, bottom ash waste, slag waste and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;

(d) Solid wastes from the extraction, beneficiation and processing of ores and minerals; or

(e) Cement kiln dust.

SPECIAL DISTRICT. An entity established under the authority of UCA Title 17A, Special Districts, as amended, and any other governmental or quasi-governmental entity that is not a county, municipality, school district or unit of the state.

SPECIAL EVENTS. An event advertised to the general public and established for a maximum period of seven consecutive days per event, and limited to six such events per property or applicant, per calendar year. ***SPECIAL EVENTS*** may include, but are not limited to: non-profit fund-raising activities conducted by a registered non-profit organization; organized events such as educational, historic, religious, and patriotic displays or exhibits; concerts; athletic or recreational events; festivals; street fairs; arts and crafts fairs.

SPECIFIED PUBLIC UTILITY. An electrical corporation, gas corporation or telephone corporation, as those terms are defined in UCA § 54-2-1, as amended.

STORAGE. The actual or intended containment of solid or hazardous waste either on a temporary basis or for a period of years in such a manner as not to constitute disposal of such waste.

STORY. The portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, then the space between the surface of such floor and the ceiling or roof above it.

STORY, HALF. A partial story under a gable, hip or gambrel roof, the wall plates of which on at

least two opposite exterior walls do not extend more than four feet above the floor of such story, and the ceiling area of which does not exceed two-thirds of the floor area of the same ***HALF STORY***.

STREET LINE. The boundary which separates the right-of-way of a street from the abutting property.

STRUCTURAL ALTERATION. Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any rebuilding of the roof or exterior walls.

STRUCTURE. Anything constructed or erected which requires location on the ground or attached to something having location on the ground, but not including tents, vehicles, travel trailers or mobile homes.

SUBSTANTIAL MODIFICATION. A change that significantly alters the impacts and/or character of a structure, development or use.

TEMPORARY USE - LONG-TERM. A use established for a maximum period of one hundred twenty (120) days, such use being discontinued after the expiration of one hundred twenty (120) days. Long term temporary uses may include: temporary signs, farm or produce stands; temporary commercial sales such as Christmas tree lots; farmer's markets; construction offices; materials and/or equipment storage; seasonal activities such as corn mazes and pumpkin patches. Other long-term temporary uses will be allowed if approved by the Zoning Administrator.

TOWN ATTORNEY. An attorney admitted to practice law in the state and so appointed by the Council.

TOWN ENGINEER. A registered civil engineer so appointed by the Council.

TREATMENT. A method, technique or process designed to change the physical, chemical or biological character or composition of any solid or hazardous waste so as to neutralize such waste or so as to render such waste non-hazardous, safer for transport, amenable for recovery, amenable to storage or reduced in volume.

USE. The purpose or purposes for which land or a building is occupied, maintained, arranged, designed or intended.

VARIANCE. Permission from the Board of Adjustment to depart from the development requirements of this chapter including setbacks, side yards and frontage requirements and if such permission is not granted would render the property unusable.

WATER WISE LANDSCAPING. A landscaping plan developed especially for arid and semiarid climates utilizing water-conserving techniques, such as the use of drought-tolerant plants, mulch, and efficient irrigation, that reduces the need for supplemental irrigation. "Xeriscape" is a form of Water Wise Landscaping. Plants, trees, and shrubs that are appropriate to the local climate are used, and care is taken to avoid losing water to evaporation and run-off. A Water Wise Landscape is a mix of plantings and other landscaping materials with at least fifty percent (50%) of the landscaped area containing plants, trees, and shrubs. The use of mulch coverings, organic or stone, without fifty percent (50%) plantings does not constitute a Water Wise Landscape.

WIRELESS TELECOMMUNICATION EQUIPMENT. Any equipment used to provide wireless telecommunication service, but which is not affixed to or contained within a wireless telecommunication service facility, but is instead affixed to or mounted on an existing building or structure that is used for some other purpose.

WIRELESS TELECOMMUNICATION FACILITY. Any freestanding facility, building, pole, tower or structure used to provide only wireless telecommunication services, and which consists of, without limitation, antennae, equipment and

storage and other accessory structures used to provide wireless telecommunication services.

WIRELESS TELECOMMUNICATION SERVICES. Services providing for the transmission of wireless communications utilizing frequencies authorized by the Federal Communications Commission for paging systems, enhanced specialized wireless telecommunication, personal communication services or cellular telephone.

YARD. The open space at grade level between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided in this chapter. In measuring a ***YARD*** for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot line and the principal building is to be used; however, on any lot wherein a setback line has been established by the regulations of this chapter for any street abutting the lot, such measurement is to be taken from the principal building to the setback line.

YARD, FRONT. A yard extending across the front width of a lot and being the minimum horizontal distance between the street line and the principal building or any projection thereof, other than steps, unenclosed balconies and unenclosed porches. The ***FRONT YARD*** of a corner lot is the yard adjacent to the designated front lot line.

YARD, REAR. A yard extending between the side yards of a lot or between the side lot lines in the absence of side yards, and being the minimum horizontal distance between the rear lot line and the rear

of the principal building or any projection thereof, other than steps, unenclosed balconies or unenclosed porches. On corner lots and interior lots, the ***REAR YARD*** is in all cases at the opposite end of the lot from the front yard.

YARD, SIDE. A yard between the building and the side lot and extending from the front yard to the rear lot line as defined or along the full depth in absence of front and rear yards and being the minimum horizontal distance between a side lot line and the side of the principal building or any projection thereof, other than steps, unenclosed balconies or unenclosed porches. An ***INTERIOR SIDE YARD*** is defined as the side yard adjacent to a common lot line.

ZONING DISTRICT. Any portion of the incorporated area of the town in which the same zoning regulations apply.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 20; Ord. 2021-2, passed - -2021; Ord. 2021-5, passed 11-4-2021; Ord. 2021-7, passed 12-2-2021; Ord. 2024-1, passed - -2024; Ord. 2024-4, passed - - ; Ord. 2025-2, passed 5-1-2025)

INTERPRETATION OF REQUIREMENTS AND PROVISIONS

§ 153.025 INTERPRETATION.

(A) In the interpretation of this chapter, all provisions shall be:

(1) Liberally construed in favor of the town; and

(2) Deemed neither to limit or repeal any other powers granted under state statutes.

(B) The following rules shall be observed in the application and interpretation of the provisions of this chapter, except where the context clearly requires otherwise.

(1) The word “shall” or “must” are mandatory. The words “should” and “may” are permissive.

(2) Words used or defined in one tense or form shall include other tenses or derivative forms.

(3) Words used in the singular shall include the plural; words used in the plural shall include the singular.

(4) Words referencing a gender shall extend and be applied to the other gender and shall be considered gender neutral.

(5) In the event of a conflict between the text of this chapter and any illustrations, captions, figures or other material, the text of this chapter shall control.

(6) The word “includes” shall not limit a term to the specified examples, but is intended to provide guidance.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 201)

§ 153.026 ADMINISTRATIVE INTERPRETATIONS.

(A) *Purpose.* To promote day-to-day efficiencies in the administration and implementation of this chapter, and where ambiguity, conflicting provisions or confusion may exist in any standard or requirement of this chapter, this section is provided to allow the Zoning Administrator to make interpretations of this chapter, on an as-required basis, guided by the purposes of this chapter and the Act, applied to the specific circumstance.

(B) *Authority.* The Zoning Administrator is authorized to render interpretations of this chapter.

(C) *Initiation.* Any person may request an administrative interpretation of a standard or requirement of this chapter by presenting an application for an administrative interpretation.

(D) *Procedure.* An application for an administrative interpretation shall be considered and processed as follows:

(1) A complete administrative interpretation application shall be submitted to the Town Clerk;

(2) After the application is determined complete by the Town Clerk, the Zoning Administrator shall review the application and shall make an interpretation in accordance with the standards set forth in this chapter; and

(3) After making a decision, the Zoning Administrator shall provide written notice of the administrative interpretation to the applicant. A record of the administrative interpretation of the Zoning Administrator shall be maintained in the office of the Town Clerk.

(E) *Standards for making administrative interpretations.* The Zoning Administrator shall apply the following standards in making an administrative interpretation.

(1) The administrative interpretation shall not have the effect of adding or removing any standard or requirement of this chapter.

(2) An administrative interpretation shall be consistent with the purposes of this chapter and the Act and any previously rendered administrative interpretations, based on similar facts.

(3) An administrative interpretation concerning a use interpretation shall not allow the establishment of a use that is substantially different from an allowed use or is a prohibited use in the zoning district.

(4) No use interpretation shall permit the establishment of any use that would be inconsistent with the purposes of the zoning district in which it would be located.

(F) *Effect of interpretation.* An administrative interpretation shall apply only to the property for which an interpretation is given. A use interpretation finding a use to be an allowed use shall not authorize the establishment of such use, but merely authorizes the filing of the land use application necessary for any approvals, permits or licenses, as may be required by this chapter.

(G) *Appeal.* Any person adversely affected by an administrative interpretation rendered by the Zoning Administrator may appeal the decision to the town's Planning Commission, as provided herein.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 202)

§ 153.027 AUTHORITY AND RULES FOR INTERPRETATION OF ZONING DISTRICT BOUNDARIES.

(A) *Authority.* In the event of the need to determine the boundary of a zoning district, the Zoning Administrator shall have the authority and jurisdiction to render a written determination of the boundary of a zoning district.

(B) *Initiation.* Any person may request an interpretation of a zoning district boundary by presenting an application for an interpretation of a zoning district boundary.

(C) *Procedure.* An application for an interpretation of a zoning district boundary shall be considered and processed as follows.

(1) A complete interpretation of a zoning district boundary application shall be submitted to the Town Clerk.

(2) After an application is determined to be complete by the Town Clerk, the Zoning Administrator shall review the application and make an interpretation in accordance with the standards set forth in this chapter.

(3) After making a decision, the Zoning Administrator shall provide written notice of the boundary interpretation to the applicant. A record of the zoning district boundary interpretation of the Zoning Administrator shall be maintained in the office of the Town Clerk.

(D) *Standards for making zoning district boundary administrative interpretations.* The Zoning Administrator shall apply the following standards in making an interpretation of a zoning district boundary:

(1) The standards and requirements applying to such zoning district;

(2) In areas divided into lots, a zoning district boundary shall follow the boundary of a lot, unless clearly intended to divide a lot for reasons of topography, land form or other physical constraints;

(3) In areas not subdivided into lots, wherever a zoning district is indicated as a strip adjacent to and paralleling a right-of-way, the depth of such strips shall be in accordance with dimensions measured at right angles from the centerline of the right-of-way, and the length of frontage shall be in accordance with dimensions measured from section, quarter section or division lines, or centerlines of rights-of-ways, unless otherwise indicated;

(4) Where a zoning district boundary follows a natural or human-made feature, such boundary shall be deemed to be the centerline of such natural or human-made feature; and

(5) Where a zoning district boundary follows the right-of-way of any road, street, trail or other public or private right-of-way or easement, such boundary shall be deemed to be the centerline of such road, street, trail or other public or private right-of-way or easement.

(E) *Effect of interpretation.* A zoning district boundary interpretation shall apply only to the property for which an interpretation is given. A zoning district boundary interpretation shall not authorize the establishment of any use, but merely

authorizes the filing of the land use application necessary for any approvals, permits or licenses, as may be required by this chapter.

(F) *Appeal.* Any person adversely affected by a zoning district boundary interpretation rendered by the Zoning Administrator may appeal the decision to the town's Planning Commission, as provided herein.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 203)

LAND USE AUTHORITIES AND DECISION MAKING

§ 153.040 LAND USE AUTHORITIES PROVIDED.

The land use authorities identified by this chapter shall have responsibilities for administering this chapter and all other land use ordinances, as allowed by the Act and as provided herein.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 301)

§ 153.041 BOULDER TOWN COUNCIL.

(A) *Powers and duties.* For purposes of this chapter, the Town Council (hereinafter "Council") shall:

(1) Adopt the Town General Plan, all elements thereof, and all amendments thereto;

(2) Adopt all town land use ordinances, including this chapter, all provisions and requirements thereof and all amendments thereto;

(3) Direct the Town Planning Commission to prepare the General Plan, any proposed plan element, any amendments thereto, and to submit such proposed plan, element or amendments to the Council;

(4) Direct the Town Planning Commission to prepare all land use ordinances, including this chapter, zoning districts maps, official maps and all amendments thereto, and to submit such land use ordinances and maps, or amendments thereto, to the Council;

(5) Act as an appeals authority, as provided by herein;

(6) Render, or appoint a designee to render, a determination when an applicant asserts a deprivation of property rights, or has been subject to a taking of property without just compensation, or has asserted some other constitutional invalidity, as provided herein;

(7) Establish a fee schedule for all approvals, permits and licenses required by the town's land use ordinances, including this chapter; and

(8) Take such other action(s) as authorized by this chapter or the Act and not expressly delegated to another land use authority.

(B) *Effective date of decisions.* All decisions of the Council made under the authority of this chapter shall take effect on the date of the meeting when the decision is made, unless a different date is designated in the rules of the Council, or a different date is designated by the Council at the time the decision is made.

(C) *Council meeting minutes.* The approved minutes of Council meetings, attested to by a majority vote of the Council, shall constitute the official record of such meetings, and shall be filed in the office of the Town Clerk. All such records shall be available for public review and access in accordance with the laws of the state.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 302)

§ 153.042 BOULDER TOWN PLANNING COMMISSION.

The Town Planning Commission (hereinafter "Commission") was heretofore created and established pursuant to the Act, or prior enactments thereof.

(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:

(1) Prepare, or cause to be prepared, the General Plan, all elements thereof, and all amendments thereto, and to submit such plan, elements or amendments to the Council;

(2) Prepare or cause to be prepared all land use ordinances, including this chapter, all standards, and requirements thereof, and all amendments thereto, and to submit such ordinances, standards, requirements, and all amendments to the Council;

(3) Prepare or cause to be prepared all official maps, all standards and requirements thereof, and all amendments thereto, and to submit such maps, standards, requirements and all amendments to the Council;

(4) Review and recommend approval or denial of all General Plan amendment applications and all land use ordinance

amendment applications to the Council;

(5) Review and approve, approve with conditions or deny all conditional use applications;

(6) Review and recommend approval, approval with requirements or denial of all petitions for annexation to the Council;

(7) Review and recommend approval, approval with requirements or denial of all applications to establish an agricultural protection area;

(8) Act as an appeals authority, as provided herein;

(9) Adopt bylaws, policies and procedures for the conduct of the duties and meetings of the Commission, for the consideration of applications, and for any other purposes deemed necessary by the Commission, if such bylaws, policies and procedures are approved by the Council before taking effect; and

(10) Advise the Council on other matters, as the Council may direct.

(B) *Qualifications for membership.* Members of the Planning Commission shall be appointed by the Mayor with the advice and consent of the Council.

(C) *Membership; appointment, removal, terms and vacancies.*

(1) The Planning Commission shall be composed of five regular members, and one alternate member, appointed by the Mayor, with the advice and consent of the Council.

(2) The Council, after finding cause, may remove any member of the Commission for a violation of this chapter or any policies or procedures adopted by the Commission following receipt of a written complaint filed against the member. The Council shall provide the member with a hearing, if requested.

(3) Members of the Commission may be compensated on a per diem basis, based upon meetings actually attended and reasonable and necessary expenses, as determined by the Council.

(4) All members of the Commission, including the alternate member, shall serve a term of five years. No member shall serve more than two consecutive full terms. If any member begins serving his or her term and then resigns, or is unable to complete his or her term, a replacement shall be appointed. The service of a replacement member during the remainder of an unexpired term shall not constitute a full term. Consequently, a replacement member may serve the remainder of a former member's term and then be eligible to also serve two consecutive full terms, if so appointed.

(5) At an annual organizational meeting to be held the first regular meeting in January, and at other times as required, the members of the Commission shall elect one of their members as Chair and one of their members as Vice-Chair. In the absence of the Chair, the Vice-Chair shall act as Chair and shall have all powers of the Chair. The Chair shall serve a term of two years. No member shall serve as Chair for more than two consecutive terms.

(6) The Chair, or in the Chair's absence the Vice-Chair, shall be in charge of all proceedings before the Commission, and shall take such actions as necessary to preserve order and the integrity of all proceedings before the Commission.

(D) *Recording Secretary.* The Council shall appoint a Recording Secretary to serve the Commission. The Recording Secretary shall keep the minutes of all proceedings of the Commission, which minutes shall be the official record of all proceedings before the Commission, attested to by a majority vote of the members of the Commission. The Recording Secretary shall be compensated as approved by the Council.

(E) *Quorum and necessary vote.* No meeting of the Commission may be called to order, nor may any business be transacted without a quorum consisting of at least three members of the Commission being present. The Chair and the alternate member shall be included for purposes of establishing a quorum and shall act as a voting member of the Commission. The alternate member shall attend the meetings and, in the event of any absence of any regular member at a meeting, the alternate shall assume a regular member place on the Commission and shall vote in that place at that meeting. In the event that all five regular members are in attendance, the alternate shall sit in on the meeting and have a voice, but shall not have a vote. All actions of the Commission shall require a roll call vote of the Commissions duly seated at a meeting with a majority of said members voting in the affirmative.

(F) *Meetings, hearings and procedure.*

(1) The Commission shall establish a regular meeting schedule.

(2) Special meetings may be requested by the Council, the Chair of the Commission or a majority of the members of the Commission.

(3) If a matter is postponed due to lack of a quorum, the Chair shall reschedule the matter to the next available Commission meeting. The Recording Secretary shall notify all interested parties and all members of the Commission of the date when the rescheduled matter will be heard by the Commission.

(G) *Effective date of decisions.* All decisions of the Commission shall become effective on the date of the meeting when the decision is made unless a different date is designated in the rules of the Commission, or the Commission designates a different date when the decision is made.

(H) *Commission members volunteers.* Members of the Commission shall be deemed "volunteers" for the purposes of

town ordinances, rules, regulations, and policies concerning personnel; provided, however, Commission members shall be included in the definition of “employee” for the purposes of the state’s Governmental Immunity Act.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 303; Ord. 2017-01, passed 3-2-2017; Ord. 2018-5, passed 12-6-2018; Ord. 2024-4, passed - -)

§ 153.043 BOARD OF ADJUSTMENT.

The Town Board of Adjustment (hereinafter the “BOA”) was heretofore created and established pursuant to the Act, or prior enactments thereof.

(A) *Powers and duties.* The BOA shall:

(1) Recommend to the Council and Commission amendments to the General Plan or any elements thereof, as the BOA considers necessary;

(2) Recommend to the Council and Commission amendments to any land use ordinance, including this chapter, and any amendments to any provision or requirements thereof, as the BOA considers necessary;

(3) Recommend to the Council and Commission amendments to any official maps, all provisions and requirements thereof, as the BOA considers necessary;

(4) Review and approve, approve with requirements, or deny all variance applications, with a finding of an unreasonable hardship, as required by the Act, and as provided herein;

(5) Render a decision on a determination of a legal non-conforming use, as provided herein;

(6) Render a decision on a determination of a legal non-complying structure, as provided herein;

(7) Render a decision on any other legal non-conformity, as provided herein; and

(8) Adopt bylaws, policies and procedures for the conduct of the duties and meetings of the BOA, for the consideration of applications and for any other purposes deemed necessary by the BOA; provided that, such bylaws, policies and procedures shall be approved by the Council before taking effect.

(B) *No authority.* The BOA shall have no power, jurisdiction or authority to consider any of the following:

(1) To hear any amendments, waivers or modifications to any of the standards governing the approval of any General Plan amendment application or any land use ordinance amendment application;

(2) To hear any amendments, waivers or modifications to the General Plan, any element, provision or map thereof, or any provision or requirement of any land use ordinance, including this chapter, any zoning districts maps and any official maps;

(3) To make any decisions or determinations that would have the effect of authorizing a use which is not identified in the tables of uses, as provided herein; and

(4) To hear or decide any matter or application not expressly identified by division (B)(1) above.

(C) *Qualifications for membership.* Members of the BOA shall be appointed by the Mayor, with the advice and consent of the Council.

(D) *Membership; appointment, removal, terms and vacancies.*

(1) The BOA shall be composed of five members.

(2) Members of the BOA may be compensated on a per diem basis, based upon meetings actually attended and reasonable and necessary expenses, as determined by the Council.

(3) All members shall serve a term of five years. No member shall serve more than two consecutive terms.

(4) The Council, after finding cause, may remove any member of the BOA for violation of this chapter or any policies or procedures adopted by the BOA following receipt of a written complaint filed against the member. The Council shall provide the member with a hearing, if requested.

(5) At an annual organizational meeting held the first regular meeting of the year, and at other times as required, the members of the BOA shall elect one of their members as Chair and one of their members as Vice-Chair. In the absence of the Chair, the Vice-Chair shall act as Chair and shall have all powers of the Chair. The Chair and Vice-Chair shall serve a term of two years. No member shall serve as Chair for more than two consecutive terms.

(6) The Chair or, in the Chair’s absence, the Vice-Chair of the BOA shall be in charge of all proceedings before the BOA, and shall take such action as shall be necessary to preserve order and the integrity of all proceedings before the BOA.

(E) *Recording Secretary.* The Council shall appoint a recording secretary to serve the BOA. The Recording Secretary shall keep the minutes of all proceedings of the BOA, which minutes shall be the official record of all proceedings before the BOA, attested to by a majority of the members of the BOA voting. The Recording Secretary shall be compensated as approved by the Council.

(F) *Quorum and necessary vote.* No meeting of the BOA may be called to order, nor may any business be transacted, without a quorum consisting of at least three members of the BOA being present. The Chair shall be included for purposes of establishing a quorum and shall act as a voting member of the BOA. All actions of the BOA shall require the concurring vote of a majority of the total members of the BOA.

(G) *Meetings, hearings and procedure.*

(1) Regular meetings of the BOA shall be held as required.

(2) Special meetings may be requested by the Council, the Chair of the BOA or a majority of the members of the BOA.

(3) If a matter is postponed due to lack of a quorum, the Chair of the BOA shall reschedule the matter to the next available meeting. The Recording Secretary shall notify all interested parties and all members of the BOA of the date when the rescheduled matter will be heard.

(H) *Effective date of decisions.* All decisions of the BOA shall become effective on the date of the meeting when the decision is made unless a different date is designated in the rules of the BOA, or the BOA designates a different date when the decision is made.

(I) *BOA members as volunteers.* Members of the BOA shall be deemed “volunteers” for the purposes of town ordinances, rules, regulations and policies concerning personnel; provided, however, BOA members shall be included in the definition of “employee” for the purposes of the state’s Governmental Immunity Act.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 304)

§ 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; and

(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.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 305; Ord. 2024-4, passed - -)

§ 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.

(Ord. 2024-4, passed - -)

§ 153.046 SUPPORT.

The officers and staff of the town may provide support and assistance to the Council, Commission and BOA as required to effectively implement the General Plan, this chapter and Ch. 152 of this code of ordinances.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 306; Ord. 2024-4, passed - -)

§ 153.047 MEETINGS AND PUBLIC HEARINGS.

All meetings and hearings of all land use authorities identified herein shall comply with the provisions of this chapter, and all other applicable ordinances for such meetings and hearings and the requirements of the laws of the state for open and public meetings.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 307; Ord. 2024-4, passed - -)

§ 153.048 PROVISION OF ADMINISTRATIVE GUIDELINES.

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

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 308; Ord. 2023-1, passed 12-7-2023; Ord. 2024-4, passed - -)

§ 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.

October 2025

(C) For actions related to subdivision applications, review, and decisions as outlined inChapter 152, time requirements are measured in business days.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 309; Ord. 2024-4, passed - -)

§ 153.050 FRACTIONAL NUMBERS.

(A) In determining compliance with the numerical requirements of this chapter, any computation or measurement resulting in a fractional number, except density calculations, shall be rounded to the nearest whole number.

(B) Density calculations shall be rounded down to the nearest whole number.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 310; Ord. 2024-4, passed - -)

§ 153.051 PROCEDURAL IRREGULARITIES.

(A) *Validity of action.* Notwithstanding any provision of this chapter which sets forth a procedure for any matter herein, no decision, action, inaction or recommendation regarding the matter which is the subject of the procedure shall be void or invalid or set aside by a court due to any error (including, but not limited to, any irregularity, informality, neglect or omission) which pertains to an application, notice, decision, finding, record, hearing, report, recommendation or any other procedural matter whatsoever unless:

(1) The procedure is required by state or federal law; and

(2) In an examination of the entire circumstances, including the evidence, the court is of the opinion that the procedural error complained of was prejudicial to a substantial right of the complainant as shown by the following:

(a) Had the error not occurred the decision made pursuant to the procedure would have been different; and

(b) Because of the error, the complainant suffered an injury for which relief must be given.

(B) *Presumption of validity.*

(1) The court shall presume that a decision or action taken pursuant to a procedure was done in good faith and shall not presume that an error is prejudicial, or that an injury occurred.

(2) The complainant shall have the burden of proof by a preponderance of the evidence to show that an error is prejudicial or that an injury occurred.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 311; Ord. 2024-4, passed - -)

§ 153.052 DETERMINATION OF COMPLETENESS OF LAND USE APPLICATIONS.

As provided for by the Act, the Zoning Administrator shall determine a land use application submitted and complete on the date when the application is provided in a form that complies with the requirements of this chapter, as applicable, and all applicable application fees have been paid.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 312; Ord. 2024-4, passed - -)

§ 153.053 CONTINUING VALIDITY OF LAND USE APPLICATION APPROVALS.

(A) The validity of an approval of a land use application shall terminate 180 calendar days from the date of the approval by the land use authority unless an alternative date is specifically provided by the applicable land use ordinance, or the applicant has proceeded within 180 calendar days from the date of approval with reasonable diligence to implement the

approval.

(B) The validity of an approval of a land use application shall expire and shall be invalid and null and void after 180 calendar days from the date of approval by the land use authority or after the expiration of the time provided by the alternative date, as provided by the applicable land use ordinance.

(C) An approval by a land use authority shall be invalid and null and void if a use is conducted, or a building or structure is established in violation of any requirements of the town's land use ordinances, including this chapter.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 313; Ord. 2024-4, passed - -)

§ 153.054 LAND USE AUTHORITY COMPLIANCE WITH LAND USE ORDINANCES.

Each land use authority, as identified herein, shall comply with all terms and standards of all applicable land use ordinances, including this chapter.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 314; Ord. 2024-4, passed - -)

§ 153.055 LAND USE APPROVALS REQUIRED TO COMPLY WITH LAND USE ORDINANCES.

The approval of any land use application:

(A) Shall continue to comply with all requirements, conditions, terms and standards of approval, as required by the land use authority; and

(B) Shall continue to comply with the requirements of all land use ordinances, including this chapter.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 315; Ord. 2024-4, passed - -)

§ 153.056 ACQUIRING PROPERTY.

(A) The town may acquire property through purchase, gift, voluntary dedication or eminent domain.

(B) The town may require the dedication and improvement of a street or other public facility, if the street or other facility is found necessary by the town because of a land use application approval.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 316; Ord. 2024-4, passed - -)

§ 153.057 EXACTIONS.

A land use authority may impose an exaction, or exactions, on a land use application if:

(A) An essential link exists between a legitimate governmental interest and each exaction; and

(B) Each exaction is roughly proportionate, both in nature and in extent, to the impact of the proposed development.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 317; Ord. 2024-4, passed - -)

AMENDMENTS TO THE BOULDER TOWN GENERAL PLAN AND ZONING ORDINANCE

§ 153.070 AMENDMENTS TO TOWN'S GENERAL PLAN.

(A) A proposed amendment to the Town General Plan may be initiated by any property owner, any person resident of the town, any business owner, the Council, Commission or BOA by filing an application for a General Plan amendment.

(B) An application for an amendment to the General Plan may be filed with the town on the applicable application form.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 401)

§ 153.071 PROCEDURES FOR AMENDING THE TOWN'S GENERAL PLAN.

(A) *Commission public hearing required.* Prior to recommending the adoption, rejection or revision of any General Plan amendment, the Commission shall hold a public hearing in accordance with the procedures of this chapter and the Act.

(B) *Commission recommendation transmitted to Council.* After the Commission has reviewed the application and made its recommendation, the Commission shall transmit to the Council a copy of the Commission's recommendation and the transcripts and/or minutes, and all other relevant materials of the proceedings before the Commission. Following receipt of a copy of the General Plan amendment recommendation from the Commission, and all other materials, the Council shall schedule a public hearing to consider the Commission recommendation for the proposed General Plan amendment.

(C) *Council public hearing required.* The Council shall consider the General Plan amendment recommendation of the Commission at a public hearing pursuant to the procedures established by this chapter and the Act.

(D) *Council action.* Following the public hearing, the Council may approve the amendment, revise the proposed amendment and approve the proposed amendment as revised, or reject the proposed amendment. If the Council approves the proposed amendment as submitted or as revised, the Council shall adopt the General Plan amendment by ordinance.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 402)

§ 153.072 CRITERIA FOR APPROVAL OF GENERAL PLAN AMENDMENTS.

In considering a proposed amendment to the Town General Plan, the application shall identify, and the Commission and Council shall consider the following factors, among others:

(A) The effect of the proposed amendment on the character of the surrounding area;

(B) Compatibility of the proposed uses with nearby and adjoining properties;

(C) The suitability of the properties for the uses requested;

(D) The effect of the proposed amendment on the existing goals, objectives and policies of the General Plan, and listing any revisions to this chapter, Ch. 152 of this code of ordinances and any other ordinances required to implement the amendment; and

(E) The community benefit of the proposed amendment.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 403)

§ 153.073 EFFECT OF GENERAL PLAN AMENDMENT; CONSISTENCY REQUIRED.

(A) A General Plan amendment shall not authorize the development of land.

(B) After a General Plan amendment has been approved by the Council, no development shall occur until the required permits and licenses have been issued by the town consistent with the applicable provisions of this chapter, Ch. 152 of this code of ordinances, the Building Codes as adopted by the town and all other ordinances.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 404)

§ 153.074 AMENDMENTS TO THIS CHAPTER, INCLUDING THE ZONING DISTRICTS MAP.

(A) *Application.* A proposed amendment to this chapter, including the zoning districts map, may be initiated by any property owner, any person residing in the town, any business owner, the Council, Commission or BOA by filing an application for chapter amendment.

(B) *Submission.* An application for an amendment to this chapter, including the zoning districts map, shall be filed with the town on the applicable application form.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 405)

§ 153.075 PROCEDURES FOR AMENDING THIS CHAPTER AND ZONING DISTRICTS MAP AMENDMENTS (REZONES).

(A) *Commission public hearing required.* Prior to recommending the adoption, rejection or revision of any zoning ordinance amendment, including zoning map amendments (rezones), the Commission shall hold a public hearing in accordance with the procedures of this chapter and the Act.

(B) *Commission recommendation.* At a regular meeting, the Commission shall consider and formulate a recommendation to the Council on the proposed zoning ordinance amendment, including zoning map amendments (rezones).

(C) *Commission recommendation transmitted to Council.*

(1) After the Commission has reviewed the application and made its recommendation, the Commission shall transmit to the Council a copy of the Commission’s recommendation and the transcripts and/or minutes, and all other relevant materials of the proceedings before the Commission.

(2) Following receipt of a copy of the zoning ordinance amendment or zoning map amendment recommendation from the Commission, and all other materials, the Council shall schedule a public hearing to consider the Commission recommendation for the proposed amendment.

(D) *Council public hearing required.* The Council shall consider zoning ordinance and zoning map amendment recommendations of the Commission at a public hearing pursuant to the procedures established by this chapter and the Act.

(E) *Council action.*

(1) Following the public hearing, the Council may approve the amendment, revise the proposed amendment and

approve the proposed amendment as revised, or reject the proposed amendment.

(2) If the Council approves the proposed amendment as submitted or as revised, the Council shall adopt the zoning ordinance and zoning map amendment by ordinance.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 406)

§ 153.076 CRITERIA FOR APPROVAL OF A ZONING ORDINANCE AND/OR ZONING DISTRICTS MAP AMENDMENT.

(A) No amendment to the zoning ordinance or zoning districts map (rezone) may be recommended by the Commission, nor approved by the Council, unless such amendment is found to be consistent with the General Plan.

(B) In considering a zoning ordinance or zoning districts map amendment, the Commission and the Council shall consider the following factors, among others:

(1) The effect of the proposed amendment on the character of the surrounding area;

(2) The compatibility of the proposed uses with nearby and adjoining properties;

(3) The suitability of the properties for the uses requested; and

(4) The overall community benefit of the proposed amendment.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 407)

§ 153.077 EFFECT OF AN AMENDMENT TO CHAPTER AND ZONING DISTRICTS MAP.

(A) An amendment to the zoning ordinance and zoning districts map (rezone) shall not authorize the development of land.

(B) After an amendment has been approved by the Council, no development shall occur until the required development permits and licenses have been issued by the town consistent with the applicable provisions of this chapter, Ch. 152 of this code of ordinances, the Building Codes as adopted by the town and all other ordinances.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 408; Ord. 2023-1, passed 12-7-2023)

DEVELOPMENT APPLICATIONS AND PROCEDURES

§ 153.090 PURPOSE.

The development applications and procedures of the town are formulated and intended to protect the public health, safety and welfare of the town through the application of the provisions of this chapter.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 501)

§ 153.091 APPLICABILITY.

(A) A development or building permit application shall be required for all uses, intensification of uses, and construction or modifications for all properties located within the municipal boundaries of the town.

(B) All development applications are to be presented to the town on the applicable application form(s) available from the town.

(C) The type of development application presented to the town is at the discretion of the applicant.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 502)

§ 153.092 APPLICATION FORMS.

(A) The Town Council shall identify submittal requirements and internal procedures for acceptance and filing of applications.

(B) The town shall provide the necessary application forms for the administration, interpretation and enforcement of this chapter.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 503)

§ 153.093 DEVELOPMENT APPLICATION PROCEDURES.

The steps in the review and consideration of the various development applications, permits and licenses authorized by this chapter may be identified by the town in this chapter.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 504)

§ 153.094 PERMITS REQUIRED.

(A) The standards and requirements of this chapter, as applicable, shall apply to all uses or development activity located or proposed within the town.

(B) No use or development activity may be commenced or undertaken unless all necessary approvals, permits and licenses have been issued in accordance with the provisions of this chapter, as applicable.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 505)

§ 153.095 DEVELOPMENT APPLICATION; INITIATION.

An application for a required development approval, permit or license shall be initiated by submitting the appropriate application(s) to the town.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 506)

§ 153.096 DETERMINATION OF APPLICATION COMPLETENESS.

(A) After the receipt of an application, the Zoning Administrator shall determine whether the application is complete.

(B) If the Zoning Administrator determines that the application is incomplete, the Zoning Administrator shall notify the applicant in writing, identifying the deficiencies of the application and advising the applicant that no action will be taken by the town until the deficiencies have been corrected.

(C) Determinations of completeness made by Zoning Administrator shall be reviewed by the Board of Adjustment if the applicant considers the determination to be in error.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 507)

§ 153.097 REMEDYING APPLICATION DEFICIENCIES.

(A) If the applicant fails to correct the specified deficiencies within 30 days following notification of application deficiency by the Zoning Administrator, the application for development approval, permit or license shall be deemed withdrawn and will be returned to the applicant.

(B) All application fees shall also be returned to the applicant.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 508)

§ 153.098 PAYMENT OF TAXES AND CHARGES REQUIRED.

All development approvals may be conditioned so that no building permit is issued on the subject property until all delinquent taxes and charges have been paid to date of approval.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 509)

§ 153.099 SCOPE OF DEVELOPMENT APPROVALS.

(A) The rights conferred by a development permit upon the filing of a complete application and approval by the town shall be limited to those rights granted in the applicable provisions of this chapter and subject to any conditions attached to the development permit.

(B) A development permit shall be considered void after one year unless construction has taken place or the activity has commenced; provided, however, that, a longer period may be provided for a phased development application as set forth in the development approval.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 510)

§ 153.100 AMENDMENT TO DEVELOPMENT PERMITS.

All proposed amendments to an approved development approval, permit or license issued under the provisions of this chapter must be reviewed and reapproved in accordance with the procedures established for the approval of the original development approval or development permit, unless determined to be a minor revision under the provisions of this chapter.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 511)

§ 153.101 REAPPLICATION FOLLOWING DENIAL.

If an application for a development approval, permit or license is denied for failure to meet the requirements of this chapter, an application for all or a part of the same property shall not be considered for a period of at least one year from the date of

denial unless the subsequent application is for a development that is different from the previously denied proposal, the prior denial was based upon a mistake of fact, or on a motion duly passed by the Town Council to act immediately and identifying a valid public purpose.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 512)

§ 153.102 INSPECTIONS.

In order to review information relevant to an application, permit or license, town official(s) may, upon the permission of the owner, enter upon any public or private premises and make an inspection thereof.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 513)

§ 153.103 FEE FOR PROCESSING DEVELOPMENT APPLICATIONS.

(A) The Town Council shall establish, by resolution, a fee schedule for the processing and review of all applications, permits and licenses required by this chapter, designed to recover the actual or anticipated costs of review and processing of the application.

(B) The fee schedule may be amended from time to time by resolution of the Town Council.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 514; Ord. 2023-1, passed 12-7-2023)

ESTABLISHMENT OF ZONING DISTRICTS

§ 153.115 ZONING BY DISTRICTS.

(A) In accordance with the requirement of the Utah Code that zoning within municipalities be by districts, the town, as shown on the town zoning districts map, is divided into zoning districts that govern the use, intensity and other requirements for the use of land. The map accompanying this chapter, the town zoning districts map (zoning map), and incorporated herein by reference, identifies the location and distribution of each zoning district provided by the town. All development, use, activity and permits and licenses shall conform to all the provisions, standards and requirements of the applicable zoning district.

(B) To meet the purposes of this chapter, the following zoning districts are provided:

(1) Greenbelt - Multiple Use District (GMU);

(2) Low Density Residential District (LDR);

(3) Medium Density Residential District (MDR);

(4) High Density Residential District (HDR); and

(5) Commercial District (C).

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 601)

§ 153.116 ZONING DISTRICTS PURPOSE.

The zoning districts are formulated to provide and achieve the following purposes.

(A) *Greenbelt - Multiple Use District (GMU).* The Greenbelt - Multiple Use District (GMU) is established to provide areas for agricultural activities and to allow other uses determined to be compatible with agricultural uses and activities.

(B) *Low Density Residential District (LDR).* This district provides for a single-family large lot, low-density residential living environment with a density of one dwelling unit or duplex for each five acres and other uses that do not require additional public facilities and services than those provided to a low-density residential area. Additionally, this district is established to allow limited development on areas that may possess certain constraints for development.

(C) *Medium Density Residential District (MDR).* The Medium Density Residential (MDR) District, providing a maximum density of one dwelling unit or duplex per two and half acres, is provided by the town to allow an alternative residential living environment than those provided by the LDR and HDR Districts.

(D) *High Density Residential District (HDR).* The High Density Residential District (HDR) provides higher density residential areas and allows a variety of other uses and services to meet the needs of residents of the town.

(E) *Commercial District (C).* The town provides the Commercial (C) District to allow a variety of retail commercial, office and light industrial activities within the town to meet the needs of residents and visitors, to provide employment opportunities for residents, and to strengthen and provide diversity to the local economy. As explained in 7.5 of the 2021 amendments to Boulder's General Plan, this Commercial District is no longer in use. It is retained only to provide a regulatory framework for those uses that were approved within it.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 602; Ord. 2021-2, passed - -2021; Ord. 2025-2, passed 5-1-2025)

§ 153.117 TABLE OF USES.

(A) The Table of Uses (Table 1) identifies the uses allowed within each Zoning District. The Table of Uses identifies uses allowed as a permitted use (identified as "P" in the table), for which only administrative permits are required; uses allowed upon approval of a conditional use permit (identified as "PC, Potentially Compatible"); and uses allowed as a temporary use (identified as "T"). Definitions for various uses may be found in § 153.011.

(B) All uses not specifically identified as permitted, potentially compatible (permitted with a conditional use permit), or temporary within a zoning district are prohibited there, as are all uses that are not specifically identified or listed in Table 1. Cells that are left blank in the Table of Uses indicate the use is prohibited in the particular zoning district, though the use may be allowed in other zoning districts.

Table of Uses					
Use	***Zoning District***				
	GM	***LDR***	***MDR***	***HDR***	***C***
Table of Uses					
Use	***Zoning District***				
	GM	***LDR***	***MDR***	***HDR***	***C***
Accessory dwelling unit, commercial	PC				PC
Accessory use or building	P	P	P	P	
Agriculture, agricultural buildings	P	P	P	P	
Bed and breakfast inn	PC	PC	PC	PC	
Borrow pits	PC				
Cemetery	PC	PC			
Church	PC	PC	PC	PC	
Commercial use existing before 2021					P
Community market (farmer's market)	T				T
Concrete plant, in existing gravel pit	PC				
Day care/preschool center	PC				
Duplex	P	P	P	P	
External accessory dwelling unit	PC	PC	PC	PC	
Farmstand	T				T
Guest ranch	PC				
Home child care	P	P	P	P	
Home business	PC	PC	PC	PC	
Internal accessory dwelling unit	P	P	P	P	
Licensed family child care	P	P	P		
Long-term temporary use	T	T	T	T	T
Mobile food business	PC				
Public uses and utilities	PC	PC	PC	PC	
Residential day care certificate	P	P	P	P	
Residential facility for elderly	P	P	P	P	
Residential short-term rental	PC	PC	PC	PC	
Recreational Vehicle Occupancy	T	T	T	T	T
School	PC	PC	PC	PC	PC
Single-family on a lot of record	P	P	P	P	
Special events	T	T	T	T	T
Wireless telecommunication facilities	PC	PC	PC	PC	PC
Table Notes: A blank cell indicates that the use is prohibited in that zoning district.					

(Ord. 46, passed 8-28-2001; Ord. 48, passed 8-8-2002; Ord. 51, passed 11-5-2003; Ord. 46B, passed 12-3-2003; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 603; Ord. 66, passed 9-1-2011; Ord. 72, passed 11-7-2013; Ord. 15-1, passed 2-5-2015; Ord. 2018-4, passed 1-3-2019; Ord. 2019-2, passed 5-2-2019; Ord. 2021-2, passed - -2021; Ord. 2021-5, passed 11-4-2021; Ord. 2021-7, passed 12-2-2021; Ord. 2024-2, passed 9-5-2024; Ord. 2025-2, passed 5-1-2025; Ord. 2025-7, passed 11-4- 2025)

§ 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***
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	
Minimum Building Lot Size with Averaging, Well	1 acre	1 acre			
Minimum Building Lot Size with Averaging, Central Water	1 acre	1 acre			
These minimum building lot sizes for the GMU, 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	1,000 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:
1. 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.

(Ord. 46, passed 8-28-2001; Ord. 50, passed 7-2-2003; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 605; Ord. 2022-1, 6-2-2022; Ord. 2024-1, passed - -2024; Ord. 2024-4, passed - -)

§ 153.119 LOT SIZE AVERAGING.

This Code allows lot size averaging in new subdivisions or re-subdivisions in the GMU, 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 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).

(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.

(Ord. 2024-1, passed - -2024; Ord. 2024-4, passed - -)

§ 153.120 OFF-STREET PARKING REQUIREMENTS.

The Table of Off-Street Parking Requirements (Table 3) accompanies the Table of Uses. This table identifies the minimum number of off-street parking spaces required to be provided by each use or activity allowed within each zoning district.

Table of Required Off-Street Parking	
Use	***Number Of Off-Street Parking Spaces Required***
Table of Required Off-Street Parking	
Use	***Number Of Off-Street Parking Spaces Required***
Accessory dwelling unit	1 in addition to the spaces required for the primary dwelling
Bed and breakfast inn	1 space for employee, plus 1 space per guest room
Churches	1 space for every 4 seats in the assembly area
Civic/public buildings/public facilities	1 space for every 400 square feet of floor area or as approved by the Planning Commission
Commercial sales and services	1 space for each 400 square feet of floor area
Corporate offices, professional offices, business offices and financial institutions	2 spaces, plus 1 space for each 300 square feet of gross floor area
Duplex	2 spaces for each living unit
Hotels/motels	1 space for each sleeping unit
Light manufacturing	1 for each person employed during regular working hours and adequate spaces for all company owned vehicles and visitors
Parks and playgrounds	As approved by the Planning Commission
Residential facilities for persons with disabilities	1 per each 4 residents, plus 1 for each 2 employees during regular hours
Residential facilities for elderly persons	1 per each 4 residents, plus 1 for each 2 employees during regular hours
Restaurants	1 space for each 4 seats or 1 space per 100 square feet of gross floor area, whichever is less
Schools	As approved by the Planning Commission
Single-family dwelling	2 per primary dwelling unit
Sports fields, sporting facilities, arenas	1 space for every 5 seats at maximum capacity or as approved by the Planning Commission
NOTES TO TABLE:	
(1) *Americans with Disabilities Act.* All property owners and applicants for development approvals are advised that in addition to the minimum off-street parking requirements, they are also required to comply with the minimum standards for the provision of handicapped parking spaces as identified and required by the Americans with Disabilities Act, as amended.	
(2) *Location of required parking spaces.* No off-street parking shall be provided within any required front yard setback, such area being landscaped.	
(3) *Dimensions of required parking spaces.* Each required parking space shall be an area of not less than 8 feet 6 inches in width and having an area of not less than 180 square feet, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress of an automobile	
(4) *Loading and unloading requirements and regulations.*	
(a) *Loading and unloading for commercial and industrial buildings.* For all commercial and industrial buildings hereafter erected, or for any building converted to such use or occupancy, there shall be provided 1 loading and unloading space for each 25,000 square feet of floor area or as approved by the Planning Commission.	

(b) *Location of required loading and unloading spaces.* The required loading and unloading spaces shall in all cases be on the same lot as the use they are intended to serve. In no case shall required loading and unloading spaces be part of the area used to satisfy the parking requirement.

(c) *Collective action relative to loading and unloading.* This chapter shall not be construed to prevent the joint use of loading and unloading spaces for 2 or more buildings or uses if the total of such spaces when used together is not less than the sum of the spaces required for the various individual buildings or uses computed separately.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 606; Ord. 2021-2, passed - -2021; Ord. 2021-7, passed 12-2-2021; Ord. 2025-2, passed 5-1-2025)

PERMITTED USES; REVIEW AND APPROVAL

§ 153.135 APPROVAL REQUIRED.

All requests to establish a permitted use, as identified as a permitted use in the Table of Uses, or to construct any associated buildings, shall be made on the application form provided by the town.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 701)

§ 153.136 APPLICATION REQUIREMENTS.

Applications for a permitted use are required to comply with all requirements of this chapter for review and approval and the requirements for a building permit, as applicable.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 702)

§ 153.137 REVIEW AND APPROVAL PROCEDURES.

(A) The Zoning Administrator shall review the permitted use request and determine if the request:

(1) Is a permitted use within the zoning district;

(2) Complies with the requirements applicable to the zoning district, including minimum area, yard setbacks, height and all other requirements applicable in the zoning district;

(3) Does not propose any construction on any critical lands as defined by this chapter; and

(4) Complies with all applicable dedication requirements of the town and provides the necessary infrastructure, as required.

(B) (1) Upon finding that the proposed use, building or structure complies with the standards and requirements as identified in divisions (A)(1) to (A)(4) above and the proposed use, building or structure can be adequately serviced by the existing or proposed infrastructure, the development plans shall be reviewed by the Building Official for compliance to:

(a) The provisions of the International Building Code (IBC); and

(b) All other codes.

(2) If the request for a permitted use, building or structure complies with all the requirements of this chapter and the International Building Code (IBC) and all other codes, the permitted use shall be authorized and a building permit issued.

(C) (1) If the permitted use request does not comply with the requirements of this chapter and the International Building Code (IBC) and all other codes, the Zoning Administrator shall not authorize any use, building or structure, and no building permit shall be issued.

(2) The Zoning Administrator shall notify the applicant identifying what requirements have not been satisfied.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 703; Ord. 2023-1, passed 12-7-2023)

CONDITIONAL USE PERMITS

§ 153.150 ISSUANCE.

A conditional use permit may be issued as provided by this chapter for any of the uses identified as potentially compatible in the Table of Uses adopted in § 153.117.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 801; Ord. 2021-2, passed - -2021)

§ 153.151 APPLICATIONS, PUBLIC HEARING REQUIRED; PLANNING COMMISSION AUTHORIZED TO RENDER CONDITIONAL USE DECISIONS.

(A) All applications for a CUP shall be made on the form provided by the Town and be accompanied by a site development plan that complies with the requirements of § 153.152, and any additional requirements of this chapter. Applications that do not include a complete site development plan will not be accepted.

(B) The Planning Commission is authorized to render a final decision on applications for a CUP. Prior to rendering such a decision, the Planning Commission shall conduct a properly noticed public hearing to receive comment on the application.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 802; Ord. 2021-2, passed - -2021)

§ 153.152 SITE DEVELOPMENT PLAN REQUIREMENTS.

(A) A site development plan shall be required to accompany all conditional use applications.

(B) The site development plan shall provide the following:

(1) A plan drawn to a scale identifying the location and dimension of the property and any existing buildings or other structures, and fence lines;

(2) Proof of ownership of the lot on which the CUP is requested and, where the application for a CUP is presented by a representative, the owner's written authorization for the representative to submit the application;

(3) The location and dimension of all proposed buildings;

(4) All proposed off-street parking areas including egress and ingress and including areas for off-street parking during construction;

(5) The location of roads and utilities that are now serving the site or will be required to serve the site;

(6) A storm water plan;

(7) A landscape plan identifying the treatments, including type and number of plant materials proposed for all areas not occupied by buildings and parking and identifying proposed screening and buffering treatments and a calculation of the amount of pervious and impervious area;

(8) A construction plan identifying the phases of construction, a construction schedule and a list of all permits necessary for the proposed use;

(9) A service impact assessment which shall include, but not be limited to, identifying requirements for culinary water, sanitary sewer and anticipated traffic volumes, proposed accesses and Utah Department of Transportation requirements and permits, as applicable;

(10) The proposed material and colors of all exterior building facades shall be identified as well as all proposed site signage, including the height and size of all signs. All signage must comply with the requirements of § 153.202 of this chapter; and

(11) Commercial site development plans shall also be required to include all other materials needed to demonstrate compliance with the requirements of this chapter, specifically including compliance with the standards of §§ 153.185 et seq., 153.400 et seq., and 153.415 et seq.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 803; Ord. 2021-2, passed - -2021; Ord. 2021-7, passed 12-2-2021)

§ 153.153 [RESERVED].

§ 153.154 APPROVAL OR DENIAL OF A CONDITIONAL USE PERMIT APPLICATION BY THE PLANNING COMMISSION.

(A) (1) If the Planning Commission finds that a proposed potentially compatible use complies with all the requirements of this chapter, specifically including, but not limited to, the standards of §§ 153.400 et seq. and 153.415 et seq., whichever is applicable, it shall approve the application for a CUP.

(2) In approving a CUP, the Planning Commission may impose any conditions needed to ensure compliance with the applicable standards. All conditions imposed must be clearly designed to ensure compliance with a specifically cited standard or standards of this chapter.

(3) Following approval of a CUP, with or without conditions, the applicant may apply for any other approvals, licenses or permits necessary to implement the conditional use application approval.

(B) If the Planning Commission finds that, a proposed potentially compatible use does not comply with the standards of this chapter, specifically including, but not limited to, the standards of §§ 153.400 et seq. and 153.415 et seq., whichever is applicable, the application for a CUP shall be denied. If a CUP is denied by the Planning Commission, no other approvals, licenses, or permits related to the proposed use shall be approved or issued.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 805; Ord. 2021-2, passed - -2021)

§ 153.155 REVOCATION OR MODIFICATION OF A CONDITIONAL USE PERMIT.

A CUP may be modified or revoked by the Planning Commission following a properly noticed public hearing at which the Planning Commission finds that one or more of the following conditions exists:

(A) The CUP was obtained in a fraudulent manner or there has been a significant change in the use as it was represented in the application for a CUP.

(B) The use for which the CUP was granted has ceased for at least six (6) consecutive calendar months.

(C) The use is not in continuing compliance with one or more of the applicable standards of this chapter.

(D) One or more of the conditions imposed on approval of the CUP has not been met.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 806; Ord. 2021-2, passed - -2021)

TEMPORARY USES

§ 153.170 PURPOSE.

(A) The following regulations are provided to accommodate those uses that are identified as a temporary use in the Table of Uses.

(B) The character and nature of a temporary use shall be such that conditions may be required to protect adjacent properties and the general health, safety and welfare of citizens of the town.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 901)

§ 153.171 APPLICATIONS; ZONING ADMINISTRATOR AUTHORIZED TO RENDER TEMPORARY USE DECISIONS.

(A) All requests for a temporary use permit shall be made on the form provided by the town.

(B) The Zoning Administrator is authorized to render a final decision on the issuance of a temporary use permit upon a finding of compliance with all applicable requirements of this chapter, specifically including, but not limited to, the requirements of §§ 153.415 et seq. Approval of a temporary use permit may be subject to conditions, as provided in § 153.174.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 902; Ord. 2021-2, passed - -2021)

§ 153.172 ALLOWED TEMPORARY USES.

The following uses and activities may be permitted by the Zoning Administrator with a finding that the temporary use will be conducted in compliance with all the requirements of this chapter:

(A) A use proposed to be established for a maximum period of one hundred twenty (120) days, such use being discontinued after the expiration of one hundred twenty (120) days.

(B) Special events, for a period not to exceed forty five (45) days, including;

(1) Fund-raising activities conducted by a registered non-profit organization.

(2) Organized events, educational, historic, religious and patriotic displays or exhibits, including concerts, athletic or recreational events, festivals, street fairs, arts and crafts fairs, and other organized events.

(C) Temporary housing in recreational vehicles in accordance with the provisions of sections 153.201, 153.175, and 153.176 is not subject to the time limit in § 153.172(A).

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 903; Ord. 15-1, passed 2-5-2015; Ord. 2021-2, passed - -2021; Ord. 2024-2, passed 9-5-2025)

§ 153.173 EXEMPTIONS.

(A) All family gatherings shall be exempt from the requirements of a temporary use permit and shall not require a temporary use permit.

(B) The following gatherings shall be exempt and shall not require a temporary use permit:

(1) Family gatherings;

(2) All gatherings under 20 people;

(3) Church sponsored gatherings;

(4) Government sponsored gatherings;

(5) School sponsored gatherings; and

(6) Private gatherings conducted on private property and not advertised for the general public.

(C) Any owner of real property, a family member, or guest may occupy an RV on the property for a period of two weeks in any calendar year without obtaining a permit or complying with the provisions for sewer and water as required above so long as:

(1) The RV does not discharge any effluent onto the owner's land or other lands; and

(2) The two-week exemption is utilized by the property owners, the owner's family or other unpaid guests strictly on a non-commercial basis.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 904; Ord. 15-1, passed 2-5-2015; Ord. 2023-1, passed 12-7-2023; Ord. 2024-2, passed 9-5-2025)

§ 153.174 CONDITIONS MAY BE IMPOSED.

The Zoning Administrator may condition approval of a temporary use permit on:

(A) Submission and approval of a parking plan that shows how adequate parking for the proposed temporary use will be provided using existing parking areas and/or temporary parking areas that have safe access from a public road and will be properly managed to avoid creating traffic congestion, dust, and other nuisances; and/or

(B) Submission and approval of a solid waste management plan showing in detail how solid waste generated by the proposed temporary use will be collected, stored, and removed; and/or

(C) Submission of a sanitation plan showing in detail how any need for restroom facilities generated by the proposed temporary use will be met; and/or

(D) Submission and approval of a plan that clearly shows how any signs associated with the temporary use will comply with the requirements of §§ 153.185 et seq.

(E) The Zoning Administrator may refer any application for a temporary use permit to the Planning Commission at any regular meeting. The power to approve the permit will remain with the Zoning Administrator. The purpose of such a referral will be to seek informal comments and recommendations.

(Ord. 2021-2, passed - -2021)

§ 153.175 TEMPORARY USE OF RV FOR LIVING PURPOSES DURING PERIOD OF CONSTRUCTION OF PERMANENT DWELLING.

Any person or entity who has obtained all permits and complied with all requirements necessary for the construction of a permanent dwelling on a lot in the Town and who is in the process of constructing a permanent dwelling on such lot may obtain a Temporary Use Permit allowing the user to reside in an RV on the lot where the permanent dwelling is being constructed for a period of time concurrent with a valid building permit. The RV must be connected or have reasonable access to culinary water, and on-site wastewater disposal.

(Ord. 2024-2, passed 9-5-2025)

§ 153.176 TEMPORARY USE OF RECREATIONAL VEHICLES FOR EMPLOYEE HOUSING ON COMMERCIAL AND INSTITUTIONAL PROPERTY.

(A) Recreational Vehicles may be used to provide temporary, seasonal, or transitional employee housing on commercial and institutional properties under the following conditions.

(1) Such RVs must obtain a Temporary Use Permit.

(2) Such RVs must be connected to or have reasonable access to culinary water, on-site

wastewater disposal, and power.

(3) The primary occupant of the RV shall be a local worker.

(4) Nothing in this part is intended to or does create a private right of action against the Town, its agents, personnel, officials, or affiliates based upon compliance or noncompliance with its provisions.

(5) Authority to enforce compliance with this part is vested exclusively in the Boulder Town Council.

(B) For the purpose of applying § 153.176 institutional property includes land owned by Boulder Town, state agencies, and school districts.

(Ord. 2024-2, passed 9-5-2025)

§ 153.185 ESTABLISHMENT OF DEVELOPMENT STANDARDS.

(A) The purpose of general and supplementary property development standards is to protect the general health, safety and welfare of the citizens and property owners of the town and to implement the Town General Plan.

(B) Compliance with all general and supplementary standards as well as all other requirements of this chapter and all other applicable requirements of other town ordinances shall be required for the issuance of any required development approval, license or permit.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1001)

§ 153.186 GENERAL REQUIREMENTS.

(A) *All uses, buildings and structures to comply with zoning district requirements.* Every building or structure hereafter erected, reconstructed, structurally altered, enlarged or moved and every building, structure, premises or land used, rearranged, designed or intended for any use shall be built or used only as allowed by the zoning district in which such building, structure, land or use is located.

(B) *Allowed uses.* All uses allowed within the town, either as a permitted, conditional or temporary use, are identified in the Table of Uses.

(C) *Prohibited uses.* All uses of land and other activities not specifically allowed as a permitted, conditional or temporary use as identified in the Table of Uses are prohibited uses and are uses not allowed in the town.

(D) *Allowed minimum use of legal lots.* Nothing in this chapter shall be construed to prevent the use for one single-family dwelling on any legally created lot or parcel of land; provided that, such lot or parcel of land is located in a zoning district which permits single-family dwellings, and was a legal lot that at the time of adoption of this chapter and provided further that all proposed construction can qualify for the issuance of a building permit as required by the International Building Code (IBC).

(E) *Subdivision and sale of property.* No person shall subdivide any parcel of land located wholly or in part within the town for development purposes unless the parcel was legally created as required by Ch. 152 of this code of ordinances and all other applicable laws and requirements of the state.

(F) *Lots in two or more districts.* Where a lot of record at the time of passage of this chapter or any amendments thereto falls into two or more districts, the more restrictive zoning district provisions shall apply.

(G) *Required yard areas for one building only.* No required yard or setback area for any building or lot required for the purpose of complying with the provisions of this chapter shall be considered as providing the required yard or setback for any other building or lot.

(H) *Every dwelling.* Non-residential building and all other structures to be on a lot. All buildings and structures shall be located and maintained on a recorded lot.

(I) *Required yards to be unobstructed; exceptions.*

(1) All yard areas are required to be open to the sky and unobstructed, except for permitted and approved accessory buildings and for projection of sills and other ornamental features and unenclosed steps and unwalled stoops, and porches; provided that, all buildings or parts thereof comply with the setback requirements of the zoning district in which they are located.

(2) Walls and fences complying with the requirements of this chapter or meet the conditions of a development approval.

(J) *Construction in sensitive areas prohibited.*

(1) No building or structure, except for a required public utility, shall be constructed on areas determined to be sensitive.

(2) For the purposes of this chapter, ***SENSITIVE AREAS*** are defined and identified as:

(a) Areas of slope with an average 30% grade or greater;

(b) Flood channels as identified by a federal or state agency; and

(c) Jurisdictional wetlands as identified by the U.S. Army Corps of Engineers.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1002)

§ 153.187 NON-CONFORMING LOTS PROHIBITED.

No lot which does not conform to the zoning district requirements in which it is located shall be created for the purpose, whether immediate or future, for any building, use or development allowed by this chapter.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1003)

§ 153.188 SALE OR LEASE OF REQUIRED SPACE PROHIBITED.

No area needed to meet the lot width, area, setback or other requirements of this chapter for a lot or building may be sold or leased separate from such lot or building.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1004)

§ 153.189 RESERVED.

§ 153.190 ACCESS REQUIRED.

Every lot shall have frontage upon a public road or street, or have access to a private street or driveway that is on a recorded easement and that leads to a public road or street. The preliminary subdivision plat and other application materials shall show the proposed public street, private street, and private driveway and easement layout.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1006; Ord. 2022-1, passed 6-2-2022)

§ 153.191 FENCES AND WALLS.

Fences and walls shall not exceed six feet in height.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1007)

§ 153.192 EXCEPTIONS TO HEIGHT LIMITATIONS.

Steeples, flagpoles, chimneys, water tanks, silos, barns or similar structures may be erected above the height limits required by this chapter, but no space above the height limit shall be allowed for the purpose of providing additional floor space.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1008; Ord. 2020-3, passed 9-3-2020)

§ 153.193 WATER AND SEWAGE REQUIREMENTS.

As required by this section, all applications for building permits shall be accompanied by the appropriate permits or letters of approval from an approved water system, the Southwest Utah Public Health Department or the State Department of Environmental Quality, as applicable, prior to approval.

(A) *Water requirements.*

(1) In all cases where a proposed building or proposed use will require culinary water (drinking water) and the proposed building or proposed use will not be connected to an existing public water supply, approval for the culinary water system must be obtained from the Southwest Utah Public Health Department or the State Department of Environmental Quality, as applicable.

(2) For any building or use with more than 14 culinary water connections, or where 25 or more people will be served 60 or more days a year, approval of the culinary water system must be obtained from the State Department of Environmental Quality. For any building or use with fewer than 14 culinary water connections, or where fewer than 25 people will be served, or where 25 or more people will be served fewer than 60 days a year, approval of the culinary water system must be obtained from the Southwest Utah Public Health Department.

(B) *Sewage requirements.*

(1) In all cases where a proposed building or proposed use will generate wastewater, approval for wastewater disposal shall be obtained from the Southwest Utah Public Health Department or the State Department of Environmental Quality, as applicable.

(2) For any building or use where an individual wastewater disposal system (septic system) is proposed, of less than 5,000 gallons of wastewater flow per day, approval shall be obtained from the Southwest Utah Public Health Department. For any building or use where a large wastewater disposal system is proposed with greater than or equal to 5,000 gallons of wastewater flow per day, approval shall be obtained from the State Department of Environmental Quality.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1009)

§ 153.194 EFFECT OF OFFICIAL MAP.

Wherever a required front yard faces on a road or street, the depth of such front yard shall be measured from the mapped street line provided by the official map.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1010)

§ 153.195 NOXIOUS WEEDS.

All property owners shall comply with the requirements of the Utah Noxious Weeds Act, UCA Title 4, Chapter 17, as

amended.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1011)

§ 153.196 SITE LIGHTING.

(A) All buildings and grounds, including residential buildings, may be illuminated by such lighting fixtures as the owner of the property may determine; provided that, the lighting fixtures are equipped with shields, shrouds, lenses or other devices that concentrate the illumination only upon the building and grounds of the owner and minimize light trespass to adjoining properties.

(B) Indoor lighting shall not be provided or constructed in such a fashion as to provide lighting for any outdoor areas.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1012)

§ 153.197 SUPPLEMENTARY REQUIREMENTS.

(A) *Residential facilities for elderly persons.* The approval of a residential facility for elderly persons is non-transferable and automatically terminates if the structure is devoted to a use other than a residential facility for elderly persons, or if the structure fails to comply with the requirements of this section.

(1) A residential facility for elderly persons shall not:

(a) Operate as a business (UCA § 10-9a-516(1), as amended);

(b) Be considered as a business because a fee is charged for food or actual and necessary costs of operation and maintenance of the facility (UCA § 10-9a-516(3), as amended); and

(c) Provide housing for a person being treated for alcoholism or drug abuse (UCA § 10-9a-518, as amended).

(2) A residential facility for elderly persons shall:

(a) Be owned by one of the residents or by an immediate family member of one of the residents or be a facility for which the title has been placed in trust for a resident (UCA § 10-9a-516(2)(a), as amended);

(b) Be consistent with all existing, applicable land use ordinance requirements affecting the location (UCA § 10-9a-516(2)(b), as amended);

(c) Be occupied on a 24-hour basis by eight or fewer elderly persons in a family-type arrangement (UCA § 10-9a-516(2)(c), as amended);

(d) Be capable of use as a residential facility for elderly persons without structural or landscaping alterations that would change the structure's residential character (UCA § 10-9a-517(2)(c), as amended);

(e) Shall meet all land use ordinances, Building Code(s), and Health Codes as adopted, as applicable to similar dwellings (UCA § 10-9a-517(2)(a), as amended); and

(f) Provide adequate off-street parking (UCA § 10-9a-517(2)(b), as amended).

(3) Placement in a residential facility for elderly persons shall be on a strictly voluntary basis and not a part of, or in lieu of, confinement, rehabilitation or treatment in a correctional facility (UCA § 10-9a-517(2)(f), as amended).

(B) *Supplementary requirements for residential facilities for persons with disabilities.*

(1) *Types of residential facilities for persons with disabilities.* A residential dwelling for four or more persons as licensed by the Department of Human Services, Division of Services For People with Disabilities.

(2) *Residential treatment facilities and program.* A residential treatment facility or residential treatment program, as licensed and monitored by the state's Department of Human Services, under the core and categorical rules for treatment.

(3) *Day treatment facility and program.* A day treatment facility or day treatment program, as licensed and monitored by the state's Department of Human Services, under the core and categorical rules for treatment.

(4) *Outpatient treatment facility and program.* An outpatient treatment facility or outpatient treatment program, as licensed and monitored by the state's Department of Human Services, under the core and categorical rules for treatment.

(5) *Residential support facility and programs.* A residential support facility or residential support program, as licensed and monitored by the state's Department of Human Services, under the core and categorical rules for treatment.

(6) *Social detoxification facility and programs.* A social detoxification facility or social detoxification program, as licensed and monitored by the state's Department of Human Services, under the core and categorical rules for treatment.

(7) *Intermediate secure treatment facility and programs for minors.* An intermediate secure treatment facility for minors or intermediate secure treatment program for minors, as licensed and monitored by the state's Department of Human Services, under the core and categorical rules for treatment.

(C) *Compliance with Health Codes, Building Codes, Fire Codes and zoning district requirements.*

(1) *General*. No residential facility for persons with a disability shall be established unless:

(a) It is proposed in an existing building that complies with all Building, Fire and Health Codes, as adopted, applicable to similar structures, and all requirements of this chapter;

(b) It is proposed in a new building that complies with all Building, Fire and Health Codes, as adopted, applicable to similar structures, and all requirements of this chapter; and

(c) The existing or proposed building complies with all requirements of the zoning district in which it is located, or proposed, and applicable to similar structures.

(2) *Maximum number of occupants (consumers and staff).* For any existing building, or any new building, proposed to be used for a residential facility for persons with a disability, the building, or building plans shall be reviewed by the Building Official, considering the categorical standards for physical facilities, as established by the state's of Utah Department of Human Services. Following this review, the Building Official shall determine and establish the maximum number of persons allowed to reside within the facility.

(3) *State Department of Human Services license.*

(a) At the time of application for a conditional use permit to establish a residential facility for persons with a disability, or within 45 days following approval of a conditional use permit to establish a residential facility for persons with a disability, the owner or provider shall provide to the Town Clerk evidence that the facility is licensed by the state's Department of Human Services for the type of facility being considered by the town. The Planning Commission shall condition any conditional use approval on the presentation of evidence that the facility is licensed by the state's Department of Human Services, as required by this section. Failure to provide such evidence shall be grounds for the town to invalidate any existing or pending town approvals;

(b) Continued compliance with the licensure requirements of the Department of Human Services; and

(c) The responsibility to license programs or owners or providers that operate residential facility for persons with a disability, as well as require and monitor the provision of adequate services to consumers residing in these facilities, shall rest with the state's Department of Human Services.

(4) *Conditional use permit to operate a residential facility for persons with a disability non-transferable.*

(a) A permit to operate a residential facility for persons with a disability, as authorized by this section, is non-transferable and shall only be valid to the owner or provider identified on the application authorizing the operation of the facility, and as identified as the owner or provider as licensed by the state's Department of Human Services, Division of Services for People with Disabilities.

(b) A conditional use permit to operate a residential facility for persons with a disability terminates if the building is devoted to another use or if the building fails to comply with any of the standards established herein.

(5) *Reasonable accommodations.* The Planning Commission shall have the authority, in reviewing an application for a conditional use permit to establish and operate a residential facility for persons with a disability, to modify the requirements contained herein if the Commission determines such modifications are necessary in order to make a reasonable accommodation to afford persons residing in such facilities equal opportunity in the use and enjoyment of the facility.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1013; Ord. 72, passed 11-7-2013; Ord. 2021-2, passed - -2021)

§ 153.198 HAZARDOUS WASTE; PURPOSE.

(A) These provisions are established for the purpose of prohibiting commercial facilities constructed for the purpose of importation for treatment, storage or disposal of hazardous wastes or substances (collectively "commercial hazardous industry") within the town and to avoid the potential social, health and environmental impacts and risks associated with commercial hazardous industry.

(B) Industrial uses involved in the importation for treatment, storage or disposal of hazardous waste or substances ("commercial hazardous industry") either for profit or non-profit purposes shall be prohibited in the town to ensure the prevention of adverse impacts on the environment, persons, crops, animals or wildlife. The town prohibits the following activities from occurring within the municipal boundaries of the town:

(1) The processing, handling, storage, treatment and disposal of fissionable, radioactive, medical or nuclear waste or materials contaminated by such substances; and

(2) The siting of commercial hazardous industries constructed for the purpose of importation, treatment, storage or disposal of hazardous waste or hazardous substances and materials.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1014)

§ 153.199 PUBLIC USES AND UTILITIES.

(A) For the purposes of providing required public uses and public utilities in an efficient manner and at locations

determined appropriate and necessary to meet the needs of the town, the following requirements shall apply to the location and establishment of public uses and utilities, as defined, and located within the town.

(B) The minimum lot size required non-residential uses, as provided by the Table of Development Standards, shall not apply to public uses and public utilities, as defined herein, except the Planning Commission in rendering a final decision on the issuance of a conditional use permit, as authorized by § 153.151 of this chapter, shall:

(1) Require the minimum lot size for a public use or public utility to meet the minimum lot size required of the zoning district in which it is proposed to be located; or

(2) Require a lot size sufficient to ensure all requirements of this chapter are met, including, but not limited to, all requirements of the Table of Development Standards, except minimum lot size as may be modified by this section, and the requirements of §§ 153.153 and 153.154 of this chapter are met.

(Ord. 46C, passed 6-23-2005; Ord. 59, passed 5-8-2008, § 1015)

§ 153.200 [RESERVED].

§ 153.201 RECREATIONAL TYPE VEHICLE AS A TEMPORARY DWELLING.

(A) Any owner of real property that is located within the town limits or family member or guest of such owner may occupy as a dwelling an RV located on such property for a period of not more than 90 days accumulative in any given calendar year if one of the following conditions is met.

(1) The RV has working bathroom facilities properly connected to in-ground water and sewer which has been installed and inspected pursuant to the appropriate building permit for said water and sewer as authorized in the town's Building Code and in accordance with state law and the provisions of Southwest Utah Public Health Department.

(2) The RV with or without working bathroom facilities is parked within 100 feet of a dwelling located on the property which dwelling has working bathroom facilities hooked to a septic tank and drain field, and the bathroom facilities are continuously open and available to the occupant(s) of the RV.

(3) The RV has working self-contained bathroom facilities and is parked or stored on the real property, and is occupied only on an "occasional basis" not to exceed 90 days cumulatively in any calendar year.

(B) In addition to complying with one of the three requirements in division (A) above, the property owner must additionally comply with all of the following conditions.

(1) If a generator is used for electricity, the generator must not interfere with the quiet enjoyment of any other property owner.

(2) The RV and the surrounding property must be maintained in a manner that does not violate any local ordinances or state laws relating to health or nuisance.

(3) The RV must be occupied by the property owner, family members or guests of the owner strictly on a non-commercial basis.

(4) The owner has obtained a non-fee permit for said occupancy from the Town Clerk.

(5) Only two non-owner owned RVs may be located on the real property at any one time.

(C) Nothing herein shall be deemed to authorize private property to be used as an RV park or trailer park and the sole intent of this amendment is to allow property owners, their families and guests as described above to use an RV as a temporary means of inhabiting their property.

(D) (1) All permits will be issued or renewed on an individual basis.

(E) (1) The foregoing does not apply to mobile homes or any other dwellings occupied as permanent living quarters, all of which are classified as regulated dwellings.

(2) Any trailer of any type or motor coach incapable of locomotion on demand does not qualify as an "RV" for purposes of this chapter and cannot be used as a habitable dwelling without first complying with all provisions of the town ordinances and state law governing the health, safety and habitation of permanent dwellings.

(F) The foregoing does not apply to the exemption granted by §153.156 of this chapter.

(G) A violation of this section constitutes a Class C misdemeanor. This section is also enforceable civilly by both a claim for injunction and damages.

(Ord. 46D, passed 8-4-2005; Ord. 59, passed 5-8-2008, § 1017; Ord. 2024-2, passed 9-5-2025)

§ 153.202 SIGNS.

(A) *Purpose.* This section is provided to:

(1) Promote and protect the public health, safety and welfare by regulating the location and size of signs;

(2) Protect property values;

(3) Enhance and protect the physical appearance of the town;

(4) Preserve the scenic and natural beauty and rural atmosphere;

(5) Reduce sign clutter and advertising distractions and obstructions; and

(6) Reduce hazards while providing procedures to enable local businesses to provide advertising.

(B) *Exemptions.* The following signs shall be exempt from the requirements of this section:

(1) *Residential identification signs.* Provided such signs are not more than two square feet in area and with any display limited to street numbers, street name and the name of the resident(s) and provided such sign does not project beyond the property;

(2) *Traffic warning and regulation signs.* Signs for the purposes of traffic regulation and direction and the displayed message is solely for traffic regulation and directional information and is maintained by a public agency;

(3) *Church and public organization signs.* Provided such signs do not exceed eight square feet in area. Such signs may include the display of official notices used by any court or public body or official, or the posting of notices by any public officer;

(4) *Window signs.* Lighted window signs are limited to no more than two signs of a maximum of five square feet each with no flashing lights. All lighted window signs must be turned off at the end of business hours;

(5) *Election signs.* Signs not exceeding two feet by two feet and which conform to the Utah State Code for distance from any polling place, and which must be removed within one week following an election. No election signage shall be placed within, or on, any publicly owned land or right-of-way, and all election signs must be authorized by the property owner of the lands on which the election signage is placed;

(6) *Real estate signs.* Signs may be erected to advertise the sale, rent or lease of property upon which said signs are placed and shall not exceed four square feet in area. An additional directional sign

not to exceed two square feet is allowed on the nearest public road with the permission of the property owner when property for sale is not along a public road;

(7) *Development promotional signs.* One development promotional sign may be placed on the premises of a subdivision or other land development project with four or more lots or approved dwelling units. Said promotional sign may not exceed 16 square feet in area and shall be removed no later than 30 days following the sale of all lots or units; provided, no development promotional sign shall be maintained for a period not to exceed two years from the date of initial installation; and

(8) *Directory signs.* Where group occupancies in office buildings, commercial buildings or industrial buildings are permitted, directory signs may be erected displaying the names of occupants of a building who are engaged in a particular profession, business or industrial pursuit. Each listing shall be no larger than one square foot of sign area.

(C) *Allowed signs.* The following signs, as defined herein, are allowed in the town with the approval of the Planning Commission or Zoning Administrator, as applicable:

(1) Free-standing signs;

(2) Building signs;

(3) Temporary signs; and

(4) Directional signs as allowed by division (E) below.

(D) *Allowed sign standards.* The following table identifies the sign standards and requirements for allowed signs as authorized herein:

Allowed Signs and Sign Standards			
Sign Standards	***Sign Type***		
	Free-Standing Signs	***Building Signs***	***Temporary Signs***
Allowed Signs and Sign Standards			
Sign Standards	***Sign Type***		
	Free-Standing Signs	***Building Signs***	***Temporary Signs***
Approval procedure	Conditional use approved by Planning Commission	Conditional use approved by Planning Commission	Approved as a temporary use by Zoning Administrator

Fire escapes	No sign shall be erected in such a manner to interfere with the use of any fire escape, exit, standpipe or obstruct any stairway, door, ventilator or window	No sign shall be erected in such a manner to interfere with the use of any fire escape, exit, standpipe or obstruct any stairway, door, ventilator or window	No sign shall be erected in such a manner to interfere with the use of any fire escape, exit, standpipe or obstruct any stairway, door, ventilator or window
Location	All signs located so no part of the sign is within 2 feet of the property line and located so as to be outside any clear vision area	Signs must be located on an existing or approved building in which the business is or will be operating. The signs must be on a wall that is at least three times the area of the proposed sign	Shall not be attached to fences, trees, other natural features, utility poles and shall be located outside any clear vision area
Maximum duration	Allowed as a permanent sign, if continued as required by this chapter	Allowed as a permanent sign, if continued as required by this chapter	Not to exceed 120 days
Maximum height	10 feet	No portion of a building sign shall extend above the wall to which it is attached	8 feet
Maximum sign area	16 square feet	32 square feet	16 square feet
Number of allowed signs	1 sign per property entrance	2 per building	1 per site
Projection	Not applicable	Shall not exceed 12 inches (including all structural and other parts) from the wall	Not applicable
Sign lighting	All sign lighting must not cause a disturbance or distraction to surrounding properties or traffic and shall provide necessary shields, shrouds, lenses or other devices that concentrate the illumination only upon the sign to protect the night sky and minimize light trespass to adjoining properties	All sign lighting must not cause a disturbance or distraction to surrounding properties or traffic and shall provide necessary shields, shrouds, lenses or other devices that concentrate the illumination only upon the sign to protect the night sky and minimize light trespass to adjoining properties	Not allowed
Utility lines	No sign shall be erected with less horizontal or vertical clearance than required by the requirements of the utility owner or provider	No sign shall be erected with less horizontal or vertical clearance than required by the requirements of the utility owner or provider	No sign shall be erected with less horizontal or vertical clearance than required by the requirements of the utility owner or provider

(E) *Directional sign.* Notwithstanding division (D) above, one directional sign location may be allowed at each corner of the intersection of the town's two major thoroughfares (i.e., Highway 12 and the Burr Trail), for the purposes of informing the public of sites and services off Highway 12, accessible from the Burr Trail, and meeting the following directional sign requirements.

(1) The total area of all directional signs allowed at each corner (directional sign location) shall not exceed 36 square feet.

(2) The co-location of directional signs may be allowed, provided the dimensions of each separate sign does not exceed five feet in length by16 inches in width and the total area of all signs does not exceed 36 square feet at one directional sign location.

(3) No portion of any co-located directional sign shall exceed 16 inches wide by five feet in length.

(4) All directional signs shall be complementary to other allowed signs at the location in material, color, size and style.

(5) The town's Planning Commission must determine that each directional sign meets all applicable requirements of this chapter prior to being established.

(6) No business, service or other attraction may be listed on more than one directional sign and may not be listed on more than one co-located directional sign.

(F) *Required approval procedures, application requirements for allowed signs.*

(1) All permanent free-standing signs and building signs authorized by this chapter shall be considered a conditional use and shall be considered by the town's Planning Commission, as required by §§ 153.150 through 153.156 of this chapter, unless the sign is a temporary sign, as provided herein.

(2) All applications for a free-standing sign or a building sign shall comply with the requirements for a conditional use

permit, as applicable, and as required by §§ 153.150 through 153.156 of this chapter. A sign application shall be accompanied by the necessary application fee and a $10 refundable photograph deposit, as required by division (G) below.

(3) All temporary signs authorized by this chapter shall be considered a temporary use and shall be considered by the town's Zoning Administrator.

(4) All applications for a conditional use permit or temporary use permit to establish a sign shall be accompanied by evidence of a valid business license, as required by the town, and as applicable.

(G) *Sign design standards, photograph required.*

(1) All signs allowed by this chapter shall be found to complement the architectural style and scale of the building and should be designed as an integral architectural element of the building and site to which it principally relates. As an architectural element, the sign should reflect the period of architecture and be in harmony with building character and use.

(2) Upon the installation of all free-standing and building signs, the owner shall provide to the town a photograph of the sign, of a size and quality sufficient to identify the size, design and color of the installed sign. Upon receipt of the sign photograph, the town shall refund the photograph deposit to the applicant. If a sign photograph is not provided to the town within 30 days of the installation of the sign, the town is authorized to take and have provided a sign photograph, with the photograph deposit being forfeited by the applicant and used by the town to defray costs incurred to provide a sign photograph.

(H) *Non-conforming signs.* All signs which have been made nonconforming by the adoption of this chapter are subject to the provisions of §§ 153.255 through 153.273 of this chapter.

(I) *Maintenance of signs.* No sign shall be erected or altered, except as provided by this chapter. All signs shall be in a safe well-maintained condition and shall be free from any hazards, including, but not limited to, faulty wiring and loose fastenings, and shall not represent a nuisance or pose threat to the public health, welfare and safety.

(J) *Sign condition and unsafe signs.*

(1) All signs, supporting structures or portion thereof approved, installed and located on any lands within the boundaries of the town shall continue to be maintained in a safe condition and in accordance with all requirements and conditions of approval and all other requirements of applicable town ordinances and requirements.

(2) Any sign, supporting structure or portion thereof declared unsafe by the Town Council shall be restored to a safe condition or removed by the owner within 30 days following notice provided by the Town Council.

(K) *Abandonment.* Any sign that ceases to be used for the purposes for which it is permitted for a period of one year shall be deemed to be abandoned and shall be removed by the owner within 30 days following notice provided by the Town Council.

(L) *Acquisition of interests.* The town may acquire title to signs by gift, purchase agreement, exchange or eminent domain, and shall have the right to amortize nonconforming signs as permitted by state or federal law.

(M) *Prohibited signs.* The following signs, as defined herein, shall be prohibited within the municipal boundaries of the town:

(1) All off-premises signs, including all billboards, but excluding directional signs as provided by division (E) above;

(2) All animated signs and wind signs;

(3) Roof signs;

(4) Canopy (marquee) signs;

(5) Back-lighted signs;

(6) Neon signs;

(7) All signs that emit sound or other emissions; and

(8) All moveable signs, including signs mounted or painted upon vehicles or trailers which are more or less permanently parked in any location for the sole purpose of calling attention to or advertising a business.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1018; Ord. 59A, passed - -2012; Ord. 59B, passed - -2012; Ord. 59A, passed - -2014)

§ 153.203 ACCESSORY DWELLING UNITS.

(A) *Is there a limit on the number of ADUs per primary dwelling?* Yes. There may be only one ADU for each primary dwelling, whether internal or external.

(B) *Are there limits on the occupancy of ADUs?* Yes.

(1) The property owner may occupy either the primary dwelling or the ADU. ADUs (internal or external) may not be rented for fewer than 30 consecutive days.

(2) An ADU may be converted to a short-term rental only via approval of a CUP for a short-term rental, as provided by § 153.204 and other provisions of this chapter.

(C) *Is there a maximum size for ADUs?* Due to state law, there are different answers for external and internal ADUs.

(1) EADUs in the GM and LDR zoning districts shall not exceed 1,000 square feet in size.

(2) EADUs in the MDR shall not exceed 800 square feet in size.

(3) EADUs in the HDR shall not exceed 600 square feet in size.

(4) IADUs must fit within the footprint of the primary dwelling at the time the application for a building permit for the IADU is established.

(D) *What about the added load an ADU may place on the wastewater system for the primary dwelling?* Due to state law, there are different answers for external and internal ADUs.

(1) The applicant must demonstrate that the existing on-site wastewater disposal system is adequate to support an EADU or that the existing system will be upgraded before a certificate of occupancy for the EADU is issued.

(2) An IADU may not be established in a primary dwelling that is served by a failed on-site wastewater system. (Ord. 2018-4, passed 1-3-2019; Ord. 2021-7, passed 12-2-2021)

§ 153.204 RESIDENTIAL SHORT-TERM RENTALS.

(A) *Purpose.* The purpose of this section is to establish land use regulations for the use of privately-owned, owner- or tenant-occupied dwelling units as short-term rentals in a manner to preserve residential and neighborhood character, protect public safety and residents' and guests' health, and promote goals of the general plan.

(B) *Definitions.*

LICENSE HOLDER is the person who resides on the property and is legally responsible for compliance with all Town ordinances pertaining to the rental.

MANAGER is the designated agent or representative of the licensee who is responsible for compliance with this Code and available to respond to guests via phone within three hours.

RESIDENTIAL SHORT-TERM RENTAL (RSTR) is a dwelling unit or portion thereof that is not zoned or licensed as commercial lodging and that is rented for monetary compensation for a period of less than 30 consecutive days. This term includes bed and breakfast inns that may or may not serve hot meals to guests.

GUEST RANCH is lodging that is permitted under the guest ranch provisions in §153.415. Guest Ranches are exempt from this section §153.204.

(C) *General provisions.*

(1) Allowed zones: RSTRs are allowed as indicated in §153.117 Table of Uses.

(2) No more than one of the approved dwellings on a lot (the primary dwelling, an internal auxiliary dwelling unit, an external dwelling unit, or a camping unit) shall be occupied by RSTR guests at any given time.

(3) Non-commercial use of a residence, including visits by friends and family, charitable donations, and home sharing, are exempt from zoning regulation as RSTRs provided no money is paid to the owner in compensation for lodging.

(4) The maximum number of RSTR CUPs issued at one time shall not exceed 12 without legislative amendment to this subsection. If at any time the number of pending applications for a new RSTR CUP exceeds the number of allowed CUPs, the assignment of the available license shall be by lottery.

(D) *Residential short-term rentals existing before 2025.*

(1) The four RSTRs with valid business licenses and previously approved CUPs as of 2025, the one RSTR holding a valid CUP (2022) but no business license in 2025, and the 2025 licensed Bed and Breakfast Inn are acknowledged as legal uses and are eligible for continued business license renewal according to Chapter 112.

(2) For RSTRs in use prior to 2020 and in regular use since, establishment of payment of the required taxes in 2020 and onward shall be considered an adequate condition for determination as a nonconforming use by the Board of Adjustment per § 153.255 *et seq*. These RSTRs are not required to obtain a CUP.

(3) Existing RSTRs that lack an onsite licensee must identify a local manager to be available when guests are present.

(E) *RSTR conditional use permit process.*

(1) A Residential Short-Term Rental (RSTR) requires a Conditional Use Permit (CUP) that complies with the requirements outlined in § 153.204 of the Boulder Town Code and is submitted on the RSTR CUP Application Form available on the Town website. An RSTR is exempt from the requirements outlined in § 153.152 Site Development Plan Requirements, § 153.155 (B), allowing a CUP without 6 months of continuous use to be revoked, and the commercial standards in § 153.415.

(2) A CUP application shall be submitted on the form provided on the Boulder Town website. The fee for filing an application is set by the Boulder Town Council and found in the Boulder Town Fee Schedule and may be changed at any time by resolution.

(3) The documentation required for an application for an RSTR CUP is as follows:

(a) Business license application and proof of primary residence at the address of the proposed RSTR as described in § 112.03.

(b) A signed affidavit indicating that the applicant shall be on-site with guests during their stay and will enforce/comply with all terms of the business license and CUP.

(c) Address and parcel number for the RSTR location.

(d) A map that shows all dwellings, RSTR location, property lines, adjacent private property boundaries and owners, fire/disaster escape route, and parking spaces for guests.

(e) Documentation that the site plan and dwelling unit configuration is consistent with the license holder living on site while guests are present.

(f) A Garfield County building department STR Inspection Report.

(4) The process for submitting and considering an application for an RSTR CUP is as follows:

(a) The applicant submits an RSTR CUP application with accompanying documentation to the Town Zoning Administrator. The Zoning Administrator forwards the application to the Planning Commission after the application is determined to be complete.

(b) The CUP review process shall be limited to identifying any site-specific conditions that would result in reasonably anticipated detrimental impacts from the RSTR under consideration. The CUP review may consider whether conditions are proposed or shall be imposed to mitigate issues related to impacts to neighbors, building/use setbacks, the County STR inspection, dwelling unit count/configuration and relation to contiguous lot boundaries, time of year/duration of use, maximum number of guests, health and sanitation, parking amount/location, driveway access, outdoor lighting and lighting trespass, noise, and neighborhood visibility of activities/guests. Required mitigation may include limitations on number of guests and vehicles, limitations on outdoor activities after dusk, requiring fencing or vegetative barriers, etc.

(c) The Planning Commission shall approve the CUP if reasonable conditions are proposed, or are imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with this section and Boulder Town Code.

(F) *Violations and enforcement.*

(1) Operating an RSTR without a valid CUP, providing false information on a CUP application, or failure to comply with the applicable town regulations for RSTRs shall be a civil infraction and shall be enforced in accordance with the Boulder Town Code.

(2) If a violation of the RSTR zoning regulations is suspected, the Town Attorney shall send a certified letter to the owner of the real property or to the license holder describing the alleged violation with a formal request to come into compliance.

(Ord. 2019-2, passed 5-2-2019; Ord. 2025-8, passed 12-2-2025)

§ 153.205 WIRELESS COMMUNICATION TOWERS AND FACILITIES.

(A) *Requirements for facility permit submissions.*

(1) A conditional use permit is required. In addition to any other materials required for a standard permit under this section or any other town ordinances, all applicants for permits to construct a telecommunications tower or antenna shall submit visual impact demonstrations using photo simulations of the proposed facility as it would be seen from residential areas, public rights of way, and public parks and other sites as deemed appropriate by the Planning Department.

(2) Weight may be given in favor of the application if the applicant is able to demonstrate a net benefit to the community and its residents for increased cell service and/or other desirable communications capacities and capabilities.

(B) *Location of facilities at or near the center of town, on mesa tops, or highly visible from scenic corridors such as State Highway 12.* Towers and antennae may be approved at or near the center of town, on mesa tops, and in designated scenic corridors by special exception and if possible concealed so as to be substantially invisible. The views of, and vistas from, such areas and corridors shall not be impaired or diminished by the placement of telecommunications towers and antennae.

(C) *Height restrictions.*

(1) No new telecommunications facility shall exceed 50 feet in height over ground level directly below. Due to the wide variation in topographical features and remote locations sited away from town center, residential areas, and State Highway 12, the Planning Commission has broad discretion in requiring the applicant to seek out locations and exhaust all reasonable options for siting the tower in the least impactful locations.

(2) Telecommunications facilities that simulate objects that typically occur in landscapes similar to the proposed location (except billboards, electrical transmission, or telecommunications towers) may exceed 50 feet in height if, based on the judgment of the Planning Commission or body issuing the conditional use permit, it would appear in context on the landscape, is aesthetically acceptable, and would be a preferable alternative to an undisguised facility.

(3) Telecommunications facilities located atop or within existing buildings or structures may result in an overall increase in height of the structure of no more than 10% of the structure's height without the facility or the maximum height allowed in the zoning district in which the structure is located, whichever is less.

(D) *Co-location.*

(1) In all applications for construction of a new facility, the applicant must prove by substantial evidence that a bona fide need exists for the facility and that no reasonable combination of locations, techniques, or technologies will obviate the need. The applicant must further prove that it has made all reasonable efforts to procure antenna space on existing facilities and that the cost of co-location exceeds the cost of a new facility by at least 50%.

(2) Prior to the issuance of a permit for a new tower, the applicant shall demonstrate commitment to joint use as follows:

(a) The applicant requesting the permit shall submit evidence to the town demonstrating that a genuine effort has been made to solicit additional users for the proposed new tower. Evidence of this shall include, at a minimum, copies of notices sent by registered mail, return receipt requested, to all other providers of cellular and wireless communications services within Garfield County and adjacent counties, advising of the intent to construct a new tower, identifying the location, inviting the joint use and sharing of costs, and requesting a written response within 15 business days.

(b) The applicant shall sign an instrument, maintained by the town, agreeing to encourage and promote the joint use of telecommunications towers within the town and, to that extent, committing that there shall be no unreasonable act or omission that would have the effect of excluding, obstructing or delaying joint use of any tower where fair and just market reasonable compensation is offered for such use.

(E) *Setback.* No new tower shall be constructed without a setback from the tower's base of at least one and one-half times the tower height to a public or private road and at least two and one-half times the tower height to the nearest property line.

(F) *Equipment shelters.* No equipment shed for a telecommunications facility shall exceed 750 square feet in area nor 12 feet in height. All such sheds shall be screened with vegetation or other aesthetically pleasing materials. Furthermore, all such sheds shall be secured with approved fencing and a locked gate if deemed necessary by the Planning Commission.

(G) *Signs, lighting and noise.* No commercial messages nor any other signs beyond safety warnings and an identification sign of not greater than four square feet shall be placed on any tower or facility, nor placed higher than five feet above ground level. No lighting, or devices emitting noise, shall be placed or maintained on the tower or facility in a manner visible or audible offsite.

(H) *Electronic emissions and electromagnetic radiation.*

(1) Prior to commencing regular operation of the facility, all facility owners and operators must submit a certificate of compliance with all current Federal Communications Commission regulations concerning electromagnetic radiation and other electronic emissions applicable to the facility.

(2) All facility operators and owners must sign an agreement, to be maintained by the town, agreeing to bring facilities into compliance with any new federal, state, or local laws or regulations concerning electromagnetic radiation and other electronic emissions applicable to the facility within 120 days of the effective date of the regulations.

(I) *Removal of facilities.* The owner of a facility shall establish a $10,000 cash security fund or provide the town with an irrevocable letter of credit in the same amount to secure the cost of removing an antenna, antenna array, or tower that has been abandoned. In the event of a transfer of ownership, the seller shall be responsible for notifying the buyer of this requirement and for notifying the town of the transfer.

(Ord. 2020-3, passed 9-3-2020)

SENSITIVE LANDS, HILLSIDE AND MESA TOPS PROTECTION OVERLAY DISTRICT

§ 153.235 PURPOSE AND INTENT.

(A) The Sensitive Lands, Hillside and Mesa Tops Overlay Protection District shall apply to all lands identified to be sensitive by this subchapter. This district identifies additional development requirements for areas identified as sensitive lands, hillside and mesa top areas. The uses allowed by the underlying or base zoning district shall still apply, except that no commercial uses shall be permitted.

(B) The purpose of the Sensitive Lands, Hillside, and Mesa Tops Protection Overlay District is to protect the health, safety and general welfare of the residents of the town and to protect the unique visual and environmental character of all sensitive lands, hillside and mesa top areas by establishing procedures for the development of these areas. These procedures are intended to:

(1) Minimize adverse soils and slope instability;

(2) Decrease the potential for erosion;

(3) Reduce the adverse effects of grading, cut and fill operations;

(4) Prevent visual intrusions on hillsides and mesa tops and preserve visually significant areas;

(5) Preserve the natural character of sensitive lands, hillsides and mesa tops and preserve the most visually significant hillsides and mesa tops in their natural state;

(6) Require the location and design of building which provide for safety and enjoyment while recognizing the existing development constraints;

(7) Minimize the effects of grading, scarring and erosion effects of cutting, filling and other development activities; and

(8) Encourage development that is sensitive to the value and amenities of these areas.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1201; Ord. 2021-2, passed - -2021)

§ 153.236 SENSITIVE LANDS, HILLSIDE AND MESA TOP AREAS.

The Sensitive Lands, Hillside and Mesa Tops Overlay District shall apply to the following areas within the town:

(A) Areas of slope exceeding 15% average grade;

(B) Flood channels as identified by a federal or state agency;

(C) Jurisdictional wetlands as identified by the U.S. Army Corps of Engineers; and

(D) Hillside and mesa top areas identified on the Hillside and Mesa Top Consideration Map, dated 2-4-2000, and incorporated herein by reference.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1202)

§ 153.237 DEVELOPMENT RESTRICTIONS.

(A) All sensitive lands, hillsides and mesa tops shall be preserved and retained in a natural state. All development proposed on mesa tops shall be sited in a manner so as not to create a silhouette against the skyline.

(B) No development shall be permitted on any land:

(1) Identified as having slope exceeding 30% average grade;

(2) Flood channels as identified by a federal or state agency; and

(3) Jurisdictional wetlands as identified by the U.S. Army Corps of Engineers.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1203)

§ 153.238 DEVELOPMENT REQUIREMENTS AND RESTRICTIONS.

(A) No building or other structure shall visually intrude into the ridgelines of a mesa top. For the purposes of this chapter and this section, ***VISUAL INTRUSION*** shall mean being visible from any point six feet high located on Utah State Highway 12 from the Utah Department of Transportation Road Shed north to the town boundaries and any point six feet high located on the Lower Boulder Road and within the boundaries of the town. Mesa top areas shall be those areas identified on the Hillside and Mesa Top Consideration Map, dated 2-4-2000, and incorporated herein by reference.

(B) It shall be unlawful to excavate or grade any area within the Sensitive Lands, Hillside and Mesa Tops Overlay District prior to final approval by the approving officer or body. In addition to the penalties outlined in this chapter, the town may enter legal proceedings to require any person who violates this subchapter to return a site to its condition prior to any disturbance.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1204)

§ 153.239 APPLICATION REQUIREMENTS.

In addition to the application requirements identified by this chapter, the following information and materials shall be provided for all areas identified as:

(A) Areas of slope exceeding 15% average grade;

(B) Flood channels as identified by a federal or state agency;

(C) Jurisdictional wetlands as identified by the U.S. Army Corps of Engineers; and

(D) Hillside and mesa top areas identified on the Hillside and Mesa Top Consideration Map, dated 2-4-2000, and incorporated herein by reference.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1205)

§ 153.240 REQUIRED INFORMATION.

(A) *Proposed grading plan.* A grading plan, prepared by a licensed engineer, and identifying the existing and proposed finished grades at contour intervals not exceeding two feet of the development site and adjoining property for a minimum of 100 feet outside all boundary lines of the development site.

(B) *Drainage plan.* A drainage plan, prepared by a licensed engineer, identifying all surface and subsurface drainage systems and facilities, walls, curbing or other erosion protection devices to be constructed in connection with or as part of the proposed work, together with a map showing the drainage area and estimated run-off of the area to be served by any drainage systems or facilities.

(C) *Facilities plan.*

(1) This plan, prepared by a licensed engineer, shall show any existing and proposed buildings or structures, easements, drainage channels and all proposed utilities with their location on the site.

(2) In addition, the location of any buildings or structures on adjacent property which may be affected by grading operations shall be shown.

(D) *Soils report.* A soils report, prepared by a licensed geotechnical engineer and identifying the following:

(1) Slope stability analysis: conclusions and recommendations concerning the effects of material removal, introduction of water, ground shaking and erosion potentials;

(2) Foundation investigation: conclusions and recommendations concerning the effects of soil conditions on foundation and structural stability, including bearing capacity, shear strength and shrink-swell potential of soils on the site;

(3) The location and yield of springs and seeps on the site, evaluation of soil permeability for septic systems if proposed; and

(4) Conclusions and recommendations regarding means to increase safety during and after construction and means to minimize any adverse effects to the development of the site.

(E) *Geology report.* A geology report, prepared by a licensed geotechnical engineer, identifying the following:

(1) Location and size of the subject area and its general setting, noting any wetlands, drainage areas, areas subject to high ground water, aquifers, shale units and poorly consolidated materials;

(2) The presence of any surface or subsurface hazards including potential for rock falls and toppling failures in cliffs, slopes and overhangs, and fault line; and

(3) Conclusions and recommendations regarding the effect of geologic conditions on the proposed development site and recommendations identifying the means proposed to minimize any hazard to life or property, or any adverse impact on the natural environment.

(F) *Vegetation report.* A vegetation plan, prepared by a licensed landscape architect, including a plan for the protection of any existing vegetation, any proposed re-vegetation of the site or modifications to existing vegetation and a plan for the preservation of existing vegetation during construction activities.

(G) *Other reports.*

(1) Other reports deemed necessary by the officer or body charged with the approval of a requested use to assure the health, safety and welfare of the project residents or public may be requested from the applicant by written specification.

(2) Such reports shall be submitted with the other applications materials.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1206)

§ 153.241 BONDING.

The approving officer or body may require the applicant to post a bond, approved by the Town Attorney and sufficient to ensure the development is completed according to approved plans.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1207)

NON-CONFORMING USES, NON-COMPLYING STRUCTURES

AND OTHER NON-CONFORMITIES

§ 153.255 PURPOSE.

The following provisions are provided to establish procedures for determining the existence of a legal non-conforming use, a legal non-complying structure or other legal non-conformity, including non- complying lots and signs, and other matters relating to legal non-conforming uses, legal non-complying structures and other legal non-complying structures and activities.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1301)

§ 153.256 LEGAL NON-CONFORMING USES OR NON-COMPLYING STRUCTURES MAY BE CONTINUED.

(A) A legal non-conforming use or legal non-complying structure, as determined by the provisions of this chapter, may be continued by the present or a future property owner.

(B) A legal non-conforming use may be extended through the same building; provided, no structural alteration of the building is proposed or made for the purpose of the extension.

(C) For purposes of this chapter, the addition of a solar energy device to a building is not a structural alteration.

(D) The town shall not prohibit the reconstruction or restoration of a non-complying structure or terminate the non-conforming use of a structure that is involuntarily destroyed in whole or in part due to fire or other calamity unless the structure or use has been abandoned.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1302)

§ 153.257 AUTHORITY.

(A) As provided for by the Act, the BOA is hereby authorized as the land use authority to review and render a decision determining the existence of a legal non-conforming use, a legal non-complying structure or other legal non-conformity.

(B) The BOA is hereby authorized as the land use authority to review and render a decision concerning any disputes relating to the abandonment of structures associated with a non-conforming use or non-complying structure.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1303)

§ 153.258 INITIATION.

All requests for a determination of the existence of a legal non-conforming use, legal non-complying structure or other legal non-conformity shall be initiated by filing the necessary application in the office of the Town Clerk. A property owner may present an application for review and decision by the BOA. An agent of the property owner, or a lessee of the property, may present an application for a determination of the existence of a legal non-conforming use, legal non-complying structure or other legal non-conformity for review and decision; provided, such application is accompanied by a property owner affidavit of authorization.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1304)

§ 153.259 APPLICATION REQUIREMENTS; DETERMINATION OF APPLICATION COMPLETENESS REQUIRED.

All applications for a determination of the existence of a legal non-conforming use, legal non- complying structure or other legal non-conformity, as applicable, are required to comply with all requirements of this subchapter and this chapter. All applications for a determination of the existence of a legal non-conforming use, legal non-complying structure or other legal non-conformity shall be determined complete by the Zoning Administrator.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1305)

§ 153.260 BURDEN OF PROOF WITH THE PROPERTY OWNER.

As provided by the Act, the property owner shall have the burden of establishing the legal existence of a non-conforming use, non-complying structure or other non-conformity.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1306)

§ 153.261 DETERMINATION OF EXISTENCE OF A LEGAL NON-CONFORMING USE, LEGAL NON-COMPLYING STRUCTURE OR OTHER LEGAL NON-CONFORMITY APPLICATION REQUIREMENTS.

All determination of existence of a legal non-conforming use, legal non-complying structure or other legal non-conformity applications shall include and provide the following information:

(A) A complete determination of a legal non-conforming use, legal non-complying structure or other legal non-conformity application, available from the office of the Town Clerk;

(B) Determination of a legal non-conforming use, legal non-complying structure or other legal non- conformity application fees, as established by the Council; and

(C) Other information, as may be determined necessary by the applicant(s), to clearly establish the existence of a legal non-conforming use, non-complying structure, lot, sign or other non-conformity on the date of adoption of this chapter, or prior enactments thereof, and compliance with all requirements of this subchapter and this chapter, and compliance with all requirements of prior enactments thereof.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1307)

§ 153.262 APPROVAL STANDARDS FOR A DETERMINATION OF THE EXISTENCE OF A LEGAL NON-CONFORMING USE, LEGAL NON-COMPLYING STRUCTURE OR OTHER LEGAL NON-CONFORMITY APPLICATION BY THE BOA.

The BOA shall review the application and determine if the application, from the materials presented by the applicant, the existence of a legal non-conforming use, legal non-complying structure or other legal non-conformity, complies with the following:

(A) The use, structure or other non-conformity is not an allowed use, structure or other activity allowed within the zoning district; and

(B) From the evidence presented by the applicant, who shall have the burden of establishing the legal existence of the non-conforming use, non-complying structure or other non-conformity, as provided by the Act, that sufficient information, documentation and other materials have been presented by the applicant to clearly establish that the use, structure or other non-conformity, which is the subject of the application, legally existed on the date of adoption of this chapter and complied with all prior enactments of this chapter.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1308)

§ 153.263 REQUIRED FINDINGS FOR APPROVAL OR DENIAL OF A DETERMINATION OF THE EXISTENCE OF A LEGAL NON-CONFORMING USE, LEGAL NON- COMPLYING STRUCTURE OR OTHER LEGAL NON-CONFORMITY APPLICATION BY THE BOA.

(A) If the BOA finds that the use, structure or other non-conformity, which is the subject of the application, legally existed on the date of adoption of this chapter, as adopted, and all other land use ordinances and requirements, as applicable, and complied with all prior enactments thereof, the application shall be approved. Following the approval by the BOA of a determination of the existence of a legal non-conforming use, legal non-complying structure or other legal non-conformity application, the applicant may apply for other necessary approvals, licenses or permits as may be applicable and authorized by this chapter.

(B) If the BOA finds that the use, structure or other non-conformity which is the subject of the application did not legally exist on the date of adoption of this chapter, as adopted, and all other land use ordinances and requirements, as applicable, and did not comply with all prior enactments thereof, the application shall be denied and no other approvals, licenses or permits shall be approved that are related to the use, structure or other non-conformity.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1309)

§ 153.264 EFFECT OF APPROVAL OF AN APPLICATION FOR A DETERMINATION OF THE EXISTENCE OF A LEGAL NON-CONFORMING USE, LEGAL NON-COMPLYING STRUCTURE OR OTHER LEGAL NON-CONFORMITY.

(A) A finding by the BOA of the existence of a legal non-complying use, non-complying structure, lot, sign or other non-conformity shall not authorize the establishment, restoration, reconstruction, extension, alteration, expansion or substitution of any non-conforming use, non-complying structure, lot, sign or other non-conformity.

(B) Following a decision by the BOA, the BOA Recording Secretary shall provide the applicant with a written notice of the decision. The written record of all applications shall be maintained on file by the Town Clerk.

(C) A finding by the BOA of the existence of a legal non-complying use, non-complying structure, lot, sign or other non-conformity shall not be deemed an approval of any other application, permit or license.

(D) A finding by the BOA of the existence of a legal non-complying use, non-complying structure, lot, sign or other non-conformity shall allow the filing of an application for any necessary approval, permit or license, as may be required by this chapter, as adopted, and all other land use ordinances and requirements, as applicable.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1310)

§ 153.265 REQUIREMENTS FOR NON-CONFORMING USES.

Following a determination by the BOA of the existence of a legal non-conforming use, the use shall comply with the following requirements.

(A) As provided by the Act, a legal non-conforming use may be continued by the present or future property owner.

(B) As provided by the Act, a legal non-conforming use may be extended through the same building; provided, no structural alteration of the building is proposed or made for the purposes of the extension. As provided by the Act, for the purposes of this section, the addition of a solar energy device to a building is not a structural alteration.

(C) Necessary maintenance and repairs may be made to a structure housing a legal non-conforming use by following the procedures for any approval, permit or license, including the issuance of a building permit, for such maintenance and repairs, as required by this chapter, as adopted, and all other land use ordinances and requirements, as applicable.

(D) As provided by the Act, the town may require the termination of a legal non-conforming use by providing a formula establishing a reasonable time period during which the owner can recover or amortize the amount of his or her investment in the non-conforming use.

(E) As provided by the Act, the town may not terminate a legal non-conforming use of a structure that is involuntarily destroyed in whole or in part due to fire or other calamity unless the use has been abandoned.

(F) As provided by the Act, a legal non-conforming use of a structure shall terminate if:

(1) The structure is allowed to deteriorate to a condition that the structure is rendered uninhabitable and is not repaired or restored within six months after written notice is provided to the property owner, by the Zoning Administrator, that the structure is uninhabitable and that the non- conforming use will be lost if the structure is not repaired or restored within six months; or

(2) The property owner has voluntarily demolished a majority of the building that houses the non-conforming use.

(G) A legal non-conforming use may only be changed to a use allowed in the Table of Uses for the zoning district in which the property is located, by following the approval procedures for such use, as required by this chapter, as adopted, and all other land use ordinances and requirements, as applicable.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1311)

§ 153.266 REQUIREMENTS FOR NON-COMPLYING STRUCTURES.

Following a determination by the BOA of the existence of a legal non-complying structure, the structure shall comply with the following requirements.

(A) As provided by the Act, a legal non-complying structure may be continued by the present or future property owner.

(B) As provided by the Act, the town may not prohibit the reconstruction or restoration of a legal non-complying structure that is involuntarily destroyed in whole or in part due to fire or other calamity unless the structure has been abandoned.

(C) Necessary maintenance and repairs may be made to a legal non-complying structure by following the procedures for any approval, permit or license, including the issuance of a building permit, for such maintenance and repairs, as required by this chapter, as adopted, and all other land use ordinances and requirements, as applicable.

(D) As provided by the Act, a legal non-complying structure shall terminate if:

(1) The structure is allowed to deteriorate to a condition that the structure is rendered uninhabitable and is not repaired or restored within six months after written notice is provided to the property owner, by the Zoning Administrator, that the structure is uninhabitable and that the non- complying structure will be lost if the structure is not repaired or restored within six months; or

(2) The property owner has voluntarily demolished a majority of the non-complying structure.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1312)

§ 153.267 REQUIREMENTS FOR NON-COMPLYING LOTS.

(A) This section shall apply to legal undeveloped non-complying lots or parcels.

(B) A legal lot of record or any parcel of record legally existing on the date of adoption of this chapter shall be eligible for a building permit authorizing the construction of one single-family dwelling, complying with the provisions of this chapter, as adopted, and all other land use ordinances and requirements, as applicable, even though such lot or parcel may not conform to the requirements of the zoning district in which the legal non-complying lot or parcel is located; provided:

(1) Such lot or parcel of land is located in a zoning district that allows single-family dwellings; and

(2) The proposed construction can qualify for the issuance of a building permit for a single-family dwelling, as required by the Building Codes as adopted.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1313)

§ 153.268 REQUIREMENTS FOR NON-COMPLYING SIGNS.

This section shall apply to signs that were legal on the date of adoption of this chapter, but which may now be a non-complying structure.

(A) A legal non-complying sign shall not be enlarged.

(B) A legal non-complying sign shall not be moved or replaced, except to bring the sign into compliance with this chapter, as adopted, and all other land use ordinances and requirements, as applicable.

(C) The text message of a legal non-complying sign may be changed if such changes do not create any new non-conformities or other non-compliance.

(D) A legal non-complying sign shall be considered abandoned if it advertises a business, service, commodity or other activity that has been discontinued for a minimum period of one year.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1314)

§ 153.269 TERMINATION OF A NON-CONFORMING USE BY THE TOWN PERMITTED; REASONABLE AMORTIZATION PERIOD REQUIRED.

As provided by the Act, the town may terminate a non-conforming use, except billboards, by providing a formula establishing a reasonable time period during which the owner can recover or amortize the amount of his or her investment in the non-conforming use, if any.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1315)

§ 153.270 TERMINATION OF A NON-CONFORMING USE DUE TO ABANDONMENT.

(A) As required by the Act, any party claiming a legal non-conforming use has been abandoned shall have the burden of establishing the abandonment.

(B) Abandonment may be presumed to have occurred if:

(1) A majority of the primary structure associated with the non-conforming use has been voluntarily demolished without prior written agreement with the town regarding an extension of the non-conforming use;

(2) The use has been discontinued for a minimum period of one year; or

(3) The primary building associated with the non-conforming use remains vacant for a minimum period of one year.

(C) (1) The property owner may rebut the presumption of abandonment under this section and shall have the burden of establishing that any claimed abandonment under this section has not in fact occurred.

(2) The BOA shall have authority to review and decide all disputes relating to abandonment of structures associated with a non-conforming use, non-complying structure or other non-conformity.

(D) The town may terminate the non-conforming use status of a school district or charter school use or structure when the property associated with the school district or charter school use or structure ceases to be used for school district or charter school purposes for a minimum period of one year.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1316)

§ 153.271 DETERMINATION OF A LEGAL NON-CONFORMING USE, LEGAL NON- COMPLYING STRUCTURE, OTHER LEGAL NON-CONFORMITY APPLICATIONS BY THE BOA TO BE ON FILE.

The Town Clerk shall maintain all determinations of a legal non-conforming use, legal non-complying structure or other legal non-conformity applications on file.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1317)

§ 153.272 REVOCATION OF A DETERMINATION OF A LEGAL NON-CONFORMING USE, LEGAL NON-COMPLYING STRUCTURE, OTHER LEGAL NON-CONFORMITY APPLICATIONS.

The approval of a determination of a legal non-conforming use, legal non-complying structure or other legal non-conformity application by the BOA shall be revoked by the BOA if the BOA finds that the approval was obtained in a fraudulent manner.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1318)

§ 153.273 APPEAL.

Any person aggrieved by a decision of the BOA related to a non-conforming use, non-complying structure or other non-conformity may appeal the decision to District Court, as provided by Act, and as provided herein.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1319)

MOVING OF BUILDINGS

§ 153.285 PURPOSE.

These provisions are designed to facilitate and manage the moving of buildings and structures within the town and to establish necessary requirements for the moving of buildings and structures.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1401)

§ 153.286 APPLICATION REQUIRED.

An application for the moving of buildings shall be made by filing an application for a building permit with the town.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1402)

§ 153.287 APPROVAL PROCEDURES.

(A) An application for the moving of buildings shall be reviewed and approved by the Planning Commission.

(B) In considering the request for the moving of buildings, the Planning Commission shall consider the following, among other items, and find:

(1) The building will have no material negative effect on the surrounding area and property values in the area to which the building is to be moved;

(2) The building is in conformity with the type and quality of the buildings existing in the area to which the building is to be moved;

(3) The building and the property on which the building is proposed to be located complies fully with all the provisions of this chapter and all applicable building codes;

(4) The building and its proposed location does not adversely affect existing buildings, uses or property in the area; and

(5) All approvals, dedications and improvements required by the town are provided in conformity with the standards of this chapter and all other ordinances.

(C) Upon finding of compliance with this chapter and the adopted Building Code, and any other items deemed necessary, the Planning Commission may approve the application for the moving of buildings.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1403)

§ 153.288 PERMITS AND GUARANTEES REQUIRED.

Before building permits can be issued, and as a condition of approval of the application for the moving of buildings, the Planning Commission may require the applicant to post a bond as determined necessary to adequately cover the installation of all improvements required by the town.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1404)

§ 153.289 CERTIFICATE OF OCCUPANCY.

Prior to the issuance of any certificate of occupancy, the Building Official will ensure that the building complies with all requirements of the Planning Commission in authorizing the moving of the building and the International Building Code (IBC) and all other codes.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1405)

§ 153.290 RESTORATION OF OLD SITE.

When the site to be vacated by the moving building or structure is located within the town, the Planning Commission may require a bond for all costs to restore the vacated site to a safe and sightly condition.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1406)

VARIANCES

§ 153.305 GENERAL.

(A) The Board of Adjustment (BOA), as provided by UCA §§ 10-9-703 et seq., as amended, is hereby authorized to consider applications for variances, as defined.

(B) Where the BOA finds that an unreasonable hardship may result from strict compliance with the provisions of this chapter, the BOA may approve variances to the development requirements of this chapter so that substantial justice may be done and the public interest secured; provided that, the variance shall not have the effect of nullifying in any way the intent

and purpose of this chapter.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1501)

§ 153.306 USE VARIANCE PROHIBITED.

The BOA may not authorize the establishment of a use other than those identified in the Table of Uses.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1502)

§ 153.307 STANDARDS.

The BOA shall not approve a variance unless, based upon the evidence presented, it finds that all of the following apply:

(A) Literal enforcement of the provisions of this chapter would cause an unreasonable hardship for the applicant and the applicant has demonstrated that the hardship is located on, or associated with the property for which the variance is sought, and is peculiar to the property rather than conditions general to the immediate area;

(B) The identified hardship is not self-imposed;

(C) The identified hardship is not economic in nature;

(D) There exist special circumstances attached to the property that do not apply to other properties in the same zoning district;

(E) The variance is essential to the enjoyment of a property right possessed by other property in the same zoning district; or

(F) The granting of the variance will not be contrary to the public interest.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1503)

§ 153.308 CONDITIONS.

In approving any variance, the BOA may require such conditions, in the judgment of the BOA, necessary to mitigate any negative effects of granting the variance and to secure the purposes of this chapter.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1504)

§ 153.309 EFFECT OF GRANTING A VARIANCE.

The granting of a variance shall not authorize the establishment or extension of any use, nor the development, construction, reconstruction, alteration or moving of any building or structure, but is a prerequisite to the preparation, filing, review and determination of any approval, permit or license that may be required by this chapter.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1505)

§ 153.310 TIME LIMITATION.

No variance shall be valid for a period of longer than six months unless a building permit is issued within that period.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1506)

§ 153.311 APPLICATION REQUIRED.

An application for a variance may be submitted on the application provided by the town.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1507)

ENFORCEMENT

§ 153.325 ENFORCEMENT; PROCEDURES AND DUTIES.

(A) This chapter may be enforced by the town by all appropriate means authorized by state law and town ordinances including, but not limited to, injunctive relief, fines, withholding of building permits and revocation of development approvals, permits and licenses.

(B) It shall be the duty of the Zoning Administrator, Planning Commission and/or Town Council to enforce these requirements and to bring to the attention of the Town Attorney any violations of this chapter.

(C) No building permit shall be issued for the construction of any building or structure located on a lot subdivided or sold in violation of the provisions of this chapter or Ch. 152 of this code of ordinances, nor shall the town have any obligation to

issue certificates of occupancy or to extend facilities or services to any parcel created in violation of this chapter or Ch. 152 of this code of ordinances.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1601)

§ 153.326 CIVIL ENFORCEMENT.

Appropriate actions and proceedings may be taken by the town in law or in equity to prevent any violation of this chapter, to prevent unlawful construction, to recover damages, to restrain, correct or abate a violation, and to prevent illegal occupancy of a building, structure or premises.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1602)

§ 153.327 RECONSIDERATION/REVOCATION OF APPROVALS, PERMITS AND LICENSES.

An approved development application, permit or license may be reconsidered and revoked by the town if it is determined that the application, decision, permit or license was based on inaccurate or incomplete information.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1603)

§ 153.328 REVOCATION PROCEDURES.

(A) *General.* If the Zoning Administrator, Building Official, Planning Commission or Town Council determines that there exists reasonable grounds for revocation of a development permit or license authorized by this chapter, a public hearing shall be set before the approving body.

(B) *Notice and public hearing.* At least 14 days' notice of a proceeding to reconsider or revoke the development permit or license shall be given to the applicant.

(C) *Required findings.* The approving body may revoke the development approval, permit or license upon making one or more of the following findings:

(1) The development permit was issued based on erroneous or misleading information or misrepresentation; and/or

(2) The terms or conditions of approval of the permit relating to establishment or operation of the use, building or structure have been violated or that other laws or regulations of the town applicable to the development have been violated.

(D) *Decision and notice.* Within 21 days of the conclusion of the public hearing, the approving body shall render a decision and shall notify the holder of the permit or license of the decision, and any other person who has filed a written request for such notice.

(E) *Effect.*

(1) A decision to revoke a development permit or license shall become final five days after the date notice of the decision was given.

(2) After the effective date, all activities pursuant to such permit shall be deemed in violation of this chapter.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1604)

REVIEW OF CONSTITUTIONAL TAKING ISSUES

§ 153.340 POLICY CONSIDERATIONS; PURPOSE.

(A) There is a policy of the town, favoring the careful consideration of matters involving constitutional taking claims, in fairness to the owner of private property bringing the claim, and in view of the uncertainty and expense involved in defending lawsuits alleging such issues.

(B) At the same time, the legitimate role of the town in lawfully regulating real property must be preserved and the public's right to require the dedication or exaction of property consistent with the Constitution.

(C) Consistent with this policy, this subchapter establishes a procedure for the review of actions that may involve the issue of constitutional takings, as well as providing guidelines for such considerations.

(D) This chapter is further intended and shall be construed to objectively and fairly review claims by citizens that a specific government action should require payment of just compensation, while preserving the ability of the town to lawfully regulate real property and fulfill its duties and functions.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1701)

§ 153.341 GUIDELINES ADVISORY.

The guidelines adopted and decisions rendered pursuant to the provisions of this chapter are advisory only, and shall not

be construed to expand or limit the scope of the town's liability for a constitutional taking.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1702)

§ 153.342 REVIEW OF FINAL TOWN DECISION; PROCEDURES.

(A) Any owner of private real property who claims there has been a constitutional taking of private real property by an action of the town shall request a review of a final decision of the town.

(B) The following are specific procedures established for such review:

(1) The person requesting a review must have obtained a final and authoritative determination from the town;

(2) Within 30 days from the date of the town's final determination that gave rise to the concern that a constitutional taking may have occurred, the person requesting the review shall file in writing, in the office of the Town Clerk, a request for review of that decision. A copy shall also be filed with the Town Attorney;

(3) The Town Council, or designee of the Town Council, shall immediately set a time to review the decision that gave rise to the constitutional takings claim;

(4) In addition to the written request for review, the applicant must submit the following information:

(a) Name of the applicant requesting review;

(b) Name and business address of current owner of the property, form of ownership, whether sole proprietorship, for-profit or not-for-profit corporation, partnership, joint venture or other and, if owned by a corporation, partnership or joint venture, name and address of all principal shareholders or partners;

(c) A detailed description of the grounds for the claim that there has been a constitutional taking;

(d) A description of the property taken;

(e) Evidence and documentation as to the value of the property taken, including the date and cost at the date the property was acquired. This should include any evidence of the value of the property before and after the alleged constitutional taking, the name of the party from whom purchased, if applicable, including the relationship, if any, between the person requesting a review and the party from whom the property was acquired;

(f) The nature of the protectable interest claimed to be affected, such as, but not limited to, fee simple ownership, leasehold interest;

(g) Terms (including sale price) or any previous purchase or sale of a full or partial interest in the property in the three years prior to the date of application;

(h) All appraisals of the property prepared for any purpose, including financing, offering for sale, or ad valorem taxation, within the three years prior to the date of application;

(i) The assessed value of and ad valorem taxes paid on the property for the previous three years;

(j) All information concerning current mortgages or other loans secured by the property, including name of the mortgagee or lender, current interest rate, remaining loan balance and term of the loan and other significant provisions, including, but not limited to, right of purchasers to assume the loan;

(k) All listings of the property for sale or rent, prices asked and offers received, if any, within the previous three years;

(l) All studies commissioned by the applicant or agents of the applicant within the previous three years concerning feasibility of development or utilization of the property;

(m) Itemized income and expense statements from the property for the previous three years;

(n) Information from a title policy or other source showing all recorded liens or encumbrances affecting the property; and

(o) The Town Council, or its designee, may request additional information identified to be necessary, in its opinion, to arrive at a conclusion concerning whether there has been a constitutional taking.

(5) An application shall not be deemed to be "complete" until the Town Council, or its designee, certifies to the applicant that all the materials and information required above have been received by the town. The Town Council, or its designee, shall notify the applicant of any missing information and identifying the materials and information necessary to correct the incomplete application;

(6) The Town Council, or its designee, shall hear all the evidence related to and submitted by the applicant and the town;

(7) A final decision on a review of a constitutional takings claim shall be rendered within 14 days from the date the complete application for review has been received by the Town Clerk. The decision of the Town Council, or its designee, regarding the results of the review shall be given in writing to the applicant and the officer, employee, board or commission that rendered the final decision that gave rise to the constitutional takings claim; and

(8) If the Town Council, or its designee, fails to hear and decide the review within 14 days, the decision appealed from shall be presumed to be approved and the constitutional takings claim denied by the Town Council, or its designee.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1703)

§ 153.343 REVIEWING GUIDELINES.

(A) The Town Council, or its designee, shall review the facts and information presented by the applicant to determine whether the action by the town constitutes a constitutional taking as defined in this chapter.

(B) In doing so, it shall consider:

(1) Whether the physical taking or exaction of the private real property bears an essential nexus to a legitimate governmental interest;

(2) Whether a legitimate governmental interest exists for the action taken by the town; and

(3) Is the property and exaction taken roughly proportionate and reasonably related both in nature and in extent to the impact caused by the activities that are the subject of the decision being reviewed.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1704)

§ 153.344 RESULTS OF REVIEW.

After completing the review, the Town Council, or its designee, shall make a determination regarding the above issues and, where determined to be necessary and appropriate, shall make a recommendation to the officer, employee, board or commission that made the decision that gave rise to the constitutional takings claim.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1705)

APPEAL AUTHORITIES AND PROCEDURES

§ 153.355 PURPOSE.

As required by the Act, this subchapter is provided to allow the applicant, a board, or officer of the town, or any other person who believes they are adversely affected by a decision of a land use authority to appeal the decision to an appeal authority, as identified by this subchapter.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1801)

§ 153.356 APPEAL AUTHORITIES.

As provided by the Act, and to provide for appeals of decisions of the town's land use authorities administering or interpreting the land use ordinances, including this chapter, the following appeal authorities, with their respective appeal responsibilities, are hereby identified.

(A) *District Court.*

(1) Any person aggrieved by a decision of the Council in enacting or administering this chapter, or the town's other land use ordinances, may file a petition with District Court, as provided by this chapter.

(2) Any person aggrieved by a decision of the BOA in administering this chapter may file a petition with the District Court, as provided by this chapter.

(B) *Council.* Any person aggrieved by a decision of the Commission in administering this chapter may file an appeal with the Council.

(C) *Commission.* Any person aggrieved by a decision of the Zoning Administrator in administering or interpreting this chapter, or the town's other land use ordinances, may file an appeal with the Commission.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1802)

§ 153.357 MAXIMUM TIME ALLOWED TO FILE APPEAL.

(A) Any person, including the applicant for any land approval required by this chapter, and any board or officer of the town, aggrieved by a decision of a land use authority's decision administering or interpreting this chapter, or the town's land use ordinances may, within ten days of the decision, appeal that decision to the appeal authority identified by § 153.356 of this chapter, except as may be further provided by divisions (B) and (C) below.

(B) Any person, including the applicant for any approval required by this chapter, or the town's other land use ordinances, and any board or officer of the town, aggrieved by a decision of the Council, acting as a land use authority, may file a petition for the review of the Council's decision with the District Court within 30 calendar days after the decision is final, as

provided by §§ 153.365 and 153.366 of this chapter.

(C) Any person, including the applicant for any approval required by this chapter, or the town's other land use ordinances, and any board or officer of the town, aggrieved by a decision of an appeal authority may file a petition for review of the decision with the District Court within 30 calendar days after the decision is final, as provided by §§ 153.365 and 153.366 of this chapter.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1803)

§ 153.358 REQUIREMENTS FOR AN APPEAL.

(A) An appeal petition of a land use authority's decision made under the authority of this chapter, or the town's other land use ordinances, shall clearly identify the alleged error in any order, requirement, decision or determination made by the land use authority in the administration or interpretation of this chapter, or the town's other land use ordinances.

(B) Only those decisions in which a land use authority has applied the requirements of this chapter, or the town's other land use ordinances to a particular application, person, lot or parcel may be appealed to an appeal authority.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1804)

§ 153.359 CONDITION PRECEDENT TO JUDICIAL REVIEW, APPEAL AUTHORITY DUTIES.

(A) As required by the Act, and as a condition precedent to judicial review, each adversely affected person shall timely and specifically challenge a land use authority's decision, in accordance with the requirements of this chapter.

(B) An appeal authority shall:

(1) Act in a quasi-judicial manner;

(2) Serve as the final arbiter of issues involving the interpretation or application of this chapter, and the town's other land use ordinances; and

(3) May not entertain an appeal of a matter in which the appeal authority, or any participating member, had first acted as the land use authority.

(C) As provided by the Act, an adversely affected party shall present every theory of relief to the appeal authority that it can raise in District Court.

(D) As required by the Act, an appeal authority shall not require an adversely affected party to pursue duplicate or successive appeals before it, or another appeal authority, as a condition of the adversely affected party'

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1805)

§ 153.360 APPLICATION REQUIRED.

(A) An appeal petition or application for an appeal, of a land use authority's decision shall be made on the appeal application, available from the Town Clerk.

(B) An appeal application shall be determined complete by the Town Clerk.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1806)

§ 153.361 MEETINGS, RECORDS AND ACTION OF AN APPEAL AUTHORITY.

(A) Each appeal authority, as identified herein shall:

(1) Notify each of its members of any meeting or hearing;

(2) Provide each of its members with the same information and access to town resources as any other member;

(3) Convene only if a quorum of its members is present; and

(4) Act only upon the vote of a majority of its convened members.

(B) After an appeal petition is determined complete by the Town Clerk, as provided herein, the Zoning Administrator shall coordinate with the appeal authority to schedule the hearing of the appeal. The Zoning Administrator shall transmit to the appeal authority all materials constituting the full and complete record of the decision of the land use authority.

(C) Following a written decision by the appeal authority, as provided by §153.365 of this chapter, the appeal authority shall provide the applicant with a copy of the written decision.

(D) A record of the decisions of the appeal authority shall be maintained in the office of the Town Clerk, which shall constitute the official record of the appeal authority.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1807)

§ 153.362 DUE PROCESS.

(A) Each appeal authority, identified by this chapter, shall conduct each appeal hearing, as provided herein.

(B) Each appeal authority, identified herein, shall respect the due process rights of each of the participants.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1808)

§ 153.363 BURDEN OF PROOF.

Any person bringing an appeal and alleging an error of a land use authority's decision administering or interpreting this chapter or the town's other land use ordinances has the burden of proof that the land use authority erred.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1809)

§ 153.364 STANDARD OF REVIEW FOR APPEALS.

(A) Each appeal authority identified by this chapter shall hear and review all appeal matters "on the record," including the review of all factual matters. Each appeal authority shall only consider those materials presented and originally before the land use authority in making the decision that is the subject of the appeal.

(B) The appeal authority shall determine the correctness of a decision of the land use authority in its interpretation and application of this chapter, and the town's other land use ordinances.

(C) Only those decisions in which a land use authority has applied the requirements of this chapter, or the town's other land use ordinances to a particular application, person, lot or parcel may be appealed to an appeal authority.

(D) An appeal application shall not be used to waive, modify or amend any requirement, provision or term of this chapter, or the town's other land use ordinances.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1810)

§ 153.365 FINAL DECISION.

A decision of each appeal authority, as identified herein, shall take effect on the date when the appeal authority, as applicable, issues a written decision.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1811)

§ 153.366 DISTRICT COURT REVIEW.

(A) *Required time for filing.*

(1) No person may challenge in District Court a decision of a land use authority until that person has exhausted all administrative remedies as provided by this chapter and received a final decision from the appeal authority, as provided by § 153.365 of this chapter.

(2) Any person adversely affected by a final decision made in the exercise of, or in violation of, the provisions of this chapter may file an appeal petition for review of the decision with the District Court within 30 calendar days after the decision is final.

(3) An appeal petition is barred unless it is filed within 30 calendar days after the appeal authority's decision is final.

(B) *Tolling of time.*

(1) The required time for filing for District Court review shall be tolled from the date that a person files a request for arbitration of a constitutional taking issue with the property rights ombudsman, as provided by UCA § 63-34-13, as amended, until 30 calendar days after:

(a) The arbitrator issues a final award; or

(b) The property rights ombudsman issues a written statement under UCA § 63-34-13(4)(b), as amended, declining to arbitrate or to appoint an arbitrator.

(2) A tolling under this section operates only as to the specific constitutional taking issue that is the subject of the request for arbitration filed with the property rights ombudsman by a property owner.

(3) A request for arbitration filed with the property rights ombudsman after the time under division (B)(1) above to file an appeal petition has expired does not affect the time to file an appeal petition.

(C) *Standards governing court review.*

(1) The District Court shall:

(a) Presume that a decision, ordinance or regulation made under the authority of this chapter, or the town's other

land use ordinances, and the Act, is valid; and

(b) Determine only whether the decision, ordinance or regulation is arbitrary, capricious or illegal.

(2) A decision, ordinance or regulation of the Council involving the exercise of legislative discretion is valid if the decision, ordinance or regulation is reasonably debatable and not illegal.

(3) A decision of a land use authority or an appeal authority involving the exercise of administrative discretion is valid if the decision is supported by substantial evidence in the record and is not arbitrary, capricious or illegal.

(4) A determination of illegality requires a determination that the decision, ordinance or regulation violates a law, statute or ordinance in effect at the time the decision was made or the ordinance or regulation adopted.

(5) The time requirements for the filing of an appeal petition with District Court, as provided by this chapter apply from the date on which the land use authority takes final action on a land use application for any adversely affected third party, if the land use authority conformed with the notice provisions of this chapter, as applicable, or for any person who had actual notice of the pending decision.

(6) If the town has complied with the notice requirements, as provided by this chapter, a challenge to the enactment of this chapter may not be filed with the District Court more than 30 calendar days after the enactment.

(D) *Appeal authority; review on the record.*

(1) The Council, acting as a land use authority, or appeal authority, as the case may be, shall transmit to District Court the record of its proceedings, including its minutes, findings, orders and, if available, a true and correct transcript of its proceedings.

(a) If the proceeding was tape-recorded, a transcript of that tape recording is a true and correct transcript for purposes of this section.

(b) If there is a record, the District Court's review is limited to the record provided by the land use authority, or appeal authority, as the case may be.

(2) The court may not accept or consider any evidence outside the record of the land use authority or appeal authority, as the case may be, unless that evidence was offered to the land use authority or appeal authority, respectively, and the court determines that it was improperly excluded.

(3) If there is no record, the court may call witnesses and take evidence.

(4) The filing of a petition does not stay the decision of the land use authority, or appeal authority, as the case may be.

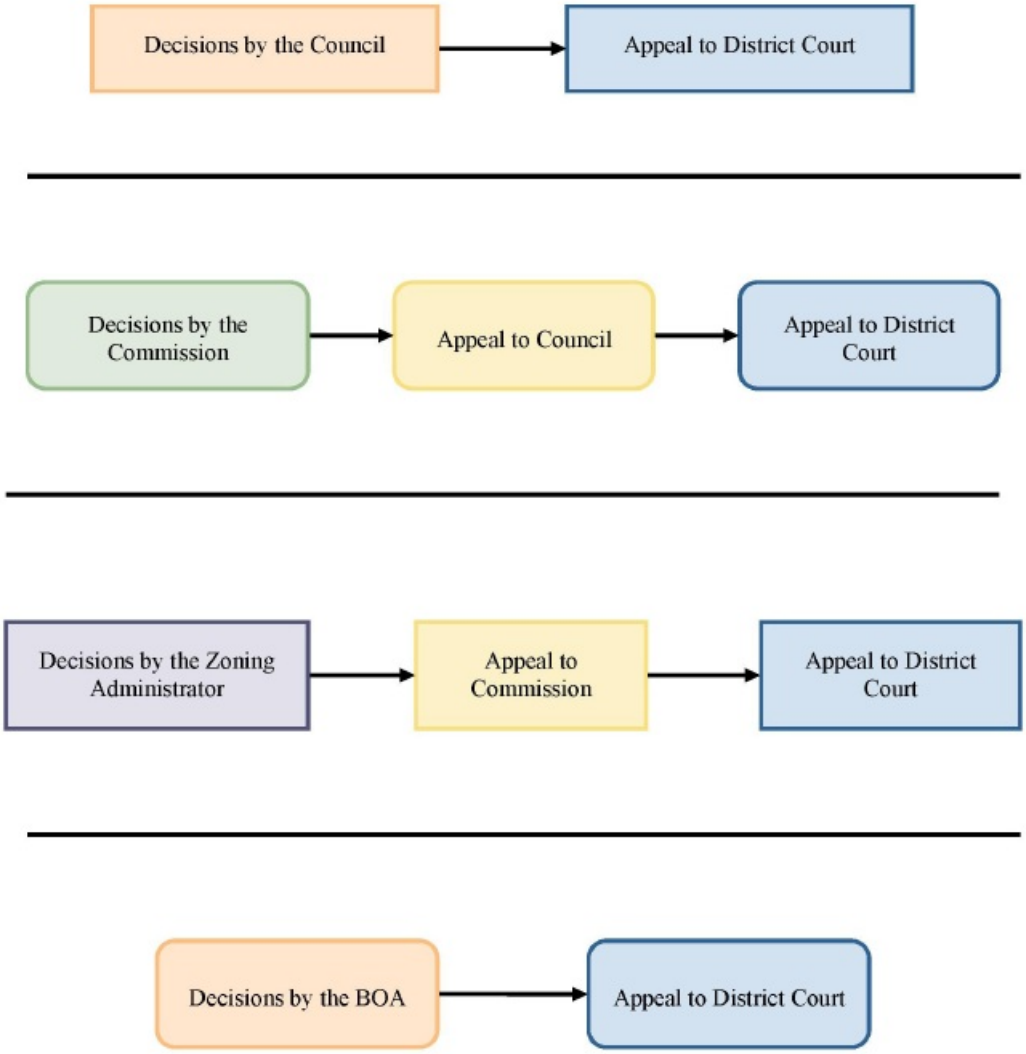
(E) *Staying of decision.*

(1) Before filing a petition under this chapter, or a request for mediation or arbitration of a constitutional taking issue under UCA § 63-34-13, as amended, the aggrieved party may petition the appeal authority to stay its decision.

(2) Upon receipt of a petition to stay, the appeal authority may order its decision stayed pending District Court review if the appeal authority finds it to be in the best interest of the town.

(3) After a petition is filed under this chapter, or a request for mediation or arbitration of a constitutional taking issue is filed under UCA § 63-34-13, as amended, the petitioner may seek an injunction staying the appeal authority's decision.

FIGURE 7: APPEAL AUTHORITIES



(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1812)

PUBLIC NOTICE AND APPLICANT NOTICING REQUIREMENTS

§ 153.380 PURPOSE.

As required and provided by the Act, the town is required to provide notice of all public hearings and public meetings for adoption or modification of this chapter and when an application required by this chapter is considered by the Commission or Council. The notice requirements of the town for public hearings and public meetings and required applicant notice regarding matters required by this chapter are provided by this chapter.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1901)

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

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

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

(a) Mailed to each "affected entity" as defined herein and the Act; and

(b) Posted in at least three public locations within the town or on the town's official website.

(2) Notice of the date, time and place of each public hearing shall be mailed at least ten calendar days before the public hearing to each applicant for a General Plan amendment application, as required by the Act; and

(3) Provide to each applicant a copy of each staff report regarding the application at least three business days before the public hearing.

(B) *Public meetings.* The Town Clerk for public meetings before the Council and the Planning Commission Secretary for public hearings before the Commission shall provide notice of each public meeting to consider the adoption or any modification of the General Plan, as presented by a General Plan amendment application, as follows:

(1) Notice of the date, time and place of each public meeting, at least 24 hours before the meeting, which notice shall be:

(a) Published in a newspaper of general circulation within the town; and

(b) Posted in at least three public locations within the town or on the town's official website.

(2) Notice of the date, time and place of each public meeting shall be provided at least 24 hours before the meeting to each applicant for a General Plan amendment application, as required by the Act; and

(3) Provide to each applicant a copy of each staff report regarding the application at least three business days before the public meeting.

(C) *Notice of final action.* The Town Clerk shall notify the applicant of any final action taken by the Council for any application related to the adoption or any modification of the Boulder Town General Plan.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1902; Ord. 2023-1, passed 12-7-2023)

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

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

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

(a) Mailed to each "affected entity" as defined herein and the Act; and

(b) Posted in at least three public locations within the town, or on the town's official website.

(2) Notice of the date, time, and place of each public hearing shall be mailed at least ten calendar days before the public hearing to each applicant for a land use ordinance amendment application, including an amendment to this chapter, zoning districts map amendment application or official map amendment application, as required by the Act; and

(3) Provide to each applicant a copy of each staff report regarding the application at least three business days before the public hearing.

(B) *Public meetings.* The Town Clerk for public meetings before the Council and the Planning Commission Secretary for public hearings before the Commission shall provide notice of each public meeting to consider the adoption or any modification of a land use ordinance, including this chapter, zoning districts map or other official map, as presented by a land use ordinance amendment application, zoning districts map amendment application or official map amendment application as follows:

(1) Notice of the date, time and place of each public meeting, at least 24 hours before the meeting, which notice shall be:

(a) Published in a newspaper of general circulation within the town; and

(b) Posted in at least three public locations within the town or on the town's official website.

(2) Notice of the date, time and place of each public meeting shall be provided at least 24 hours before the meeting to each applicant for a land use ordinance amendment application, including an amendment to this chapter, zoning districts map amendment application or official map amendment application, as required by the Act; and

(3) Provide to each applicant a copy of each staff report regarding the application at least three business days before the public meeting.

(C) *Notice of final action.* The Town Clerk shall notify the applicant of any final action taken by the Council for any application related to the adoption or any modification of to each applicant for a land use ordinance amendment application, including an amendment to this chapter, zoning districts map amendment application or official map amendment application.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1903; Ord. 2023-1, passed 12-7-2023)

§ 153.383 REQUIRED NOTICE FOR OTHER PUBLIC HEARINGS.

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

(A) Notice of the date, time and place of each public hearing, at least ten calendar days before the public hearing, which notice shall be posted in at least three public locations within the town or on the town's official website.

(B) Notice of the date, time and place of each public hearing shall be mailed at least ten calendar days before the public hearing to each applicant;

(C) Provide to each applicant a copy of each staff report regarding the application at least three business days before the public hearing; and

(D) The Town Clerk shall notify the applicant of any final action taken by the Zoning Administrator, Planning Commission, or Council for any land use application.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1904; Ord. 2023-1, passed 12-7-2023)

§ 153.384 REQUIRED NOTICE FOR OTHER PUBLIC MEETINGS.

When required by the provisions of this chapter for a land use application, the Town Clerk for public meetings before the Council and the Planning Commission Secretary for public meetings before the Commission, shall provide notice of each public meeting as follows:

(A) Notice of the date, time and place of each public meeting, at least 24 hours before the public meeting, which notice shall be posted in at least three public locations within the town or on the town’s official website;

(B) Notice of the date, time and place of each public meeting shall be provided at least 24 hours before the meeting to each applicant for a land use application;

(C) Provide to each applicant a copy of each staff report regarding the application at least three business days before the public meeting; and

(D) The Town Clerk shall notify the applicant of any final action taken by the Council for any application related to the adoption or any modification of a land use ordinance amendment application, including an amendment to this chapter, zoning districts map amendment application or official map amendment application.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1905)

§ 153.385 NOTICE CHALLENGE.

If notice given under authority of this chapter, and the authorities of the Act, is not challenged within 30 calendar days after the meeting(s), or action for which notice is given, as required by the Act, the notice is considered adequate and proper.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 1906)

HOME BUSINESSES

§ 153.400 HOME BUSINESSES.

This subchapter provides detailed standards for the review of proposed home businesses. The Planning Commission shall approve any application for a CUP for a proposed home business that complies with the standards of this subchapter and other requirements of this chapter. Compliance means that the proposal meets all absolute standards of this subchapter and has a cumulative score of zero or better on the relative standards. Compliance review will be conducted using the checklist that is located in § 153.401.

(A) Must the owner of a home business be in residence? Yes. The proposed home business must be owned and operated by a current resident of the dwelling in which it is proposed. The right to continue the home business ends if its owner is no longer in residence.

(B) Must home businesses comply with the dimensional requirements of §153.119? At a minimum, yes, but the Planning Commission may reject an application for a CUP for a home business where it finds that the existing setbacks are not deep enough to mitigate potential impacts of the proposed home business.

(C) How much indoor space can be used for a home business? That depends on its location. The indoor space that can be used for a home business is limited as follows:

(1) A maximum of one thousand five hundred (1,500) square feet will be permitted in the C and GMU zoning districts.

(2) A maximum of seven hundred fifty (750) square feet will be permitted in the residential zoning districts.

Applicants must demonstrate compliance with this standard by submitting a scaled floor plan of the dwelling or accessory structure that clearly delineates the area that will be used for the home business.

(D) Can a home business have outdoor workspace or store materials outdoors? Possibly. Proposed outdoor workspaces and/or the outdoor storage of materials, supplies, equipment, vehicles, or goods for sale associated with a home business will be evaluated using the following standards.

(1) They must fall within the setbacks required by §153.119 of this chapter, but the Planning Commission may condition approval of outdoor workspaces or storage associated with a home business on the provision of setbacks deeper than those established by § 153.119 if it finds that a greater distance from property lines or public ways is necessary to mitigate the potential impacts of the proposed home business.

(2) The effective buffering or screening of outdoor workspaces or storage associated with home businesses is encouraged. Compliance with this relative standard will be determined by the Planning Commission using the scoring range and weights adopted on the home business checklist.

Applicants must demonstrate compliance with this standard by submitting a scaled site plan that clearly delineates any outdoor space that would be used for the proposed home business. This drawing must show the required setbacks and any proposed buffers or screening. Where it is proposed to use existing vegetation as a buffer, photographs of that existing vegetation must be submitted. Where the buffer or screening will be installed, a planting plan and/or screening design must be submitted.

(E) Are there restrictions on parking or traffic generation by home businesses? Potentially. Home businesses that are reasonably expected to generate parking or traffic congestion along town roads or that have the potential to obstruct access to other properties are discouraged. The potential for congestion will be determined by the Planning Commission using the scoring range and weight adopted on the home business checklist. Among other things, the Planning Commission may consider parking and traffic generated by deliveries, the possibility that the proposed home business will offer classes or stage events, and whether the home is within the Sensitive Lands, Hillside, and Mesa Tops Overlay Protection District where access to a home business may be restricted by the terrain.

(F) Must a home business provide parking? Potentially.

(1) Off-street parking must be provided as required by §153.120 of this chapter. Note: this rate may be zero.

(2) Where more than one additional off-street parking space is provided, effective buffering or screening of that off-street parking is encouraged. Compliance with this relative standard will be determined by the Planning Commission using the scoring range and weights adopted on the home business checklist.

(G) Are there restrictions on potential nuisances generated by home businesses? Yes.

(1) No home business shall require an NPDES permit, as required by state law.

(2) No home business shall require an air quality permit, as required by state law.

(3) The storage, use, and disposal of hazardous materials by home businesses shall be permitted only to the extent allowed for residential occupancies by NFPA 1, the 2006 Uniform Fire Code.

(4) No home business shall result in additional outdoor lighting.

(5) No home business shall result in blowing dust or smoke that adversely affects adjoining properties or public ways.

(6) No home business shall result in radiant heat or glare from welding equipment or other sources of intense heat or light that adversely affect adjoining properties.

(7) No home business shall generate sound that adversely affects adjoining properties.

(H) Must a home business make proper provision for solid waste storage and disposal? Of course. All applications for CUPs for home businesses shall show how any solid waste generated by the proposed home business will be properly stored and disposed of. The Planning Commission may reject an application for a CUP for a home business upon finding that it will generate a type and/or quantity of solid waste that is not compatible with neighboring residences.

(I) Can a home business have a sign? Yes. Home businesses may display a single sign of no more than four (4) square feet in size. This may be a freestanding, hanging, projecting, or wall sign. The application for a permit to establish a home business must be accompanied by scaled drawings that show the placement of the sign on the property and/or structure and the dimensions of the sign.

(J) Can vehicles associated with a home business be parked on residential premises?

(1) Only vehicles of ten thousand (10,000) pounds gross vehicle weight or less can be parked overnight in residential zoning districts. Overnight parking of a larger vehicle is not a permitted part of a home business.

(2) Where the home business involves the service or repair of vehicles, no more than two (2) vehicles waiting for or undergoing service or repair may be on the premises at any time.

(K) Can the operating hours of home businesses be restricted? Yes. The Planning Commission may condition the approval of a home business on limited operating hours.

(L) How will compliance with these standards be ensured? A certificate of occupancy is required for all home businesses. No such certificate shall be issued until all site improvements (landscaping, screening, parking, etc.) required for compliance

with any of the standards adopted here are in place. A CUP for a home business is subject to revocation, as provided in Chapter 8 of this Ordinance.

(Ord. 2021-2, passed - -2021)

§ 153.401 HOME BUSINESS STANDARDS REVIEW WORKSHEET:

Home Business Standards Review Worksheet -							***Review of Project #_____***				
Standard		***ABSOLUTE***	***RELATIVE***	***WEIGHT***	***POINT RANGE***		***NR***	***Complies***	***Fails***	***Points***	***Points X Weight***
Home Business Standards Review Worksheet -							***Review of Project #_____***				
Standard		***ABSOLUTE***	***RELATIVE***	***WEIGHT***	***POINT RANGE***		***NR***	***Complies***	***Fails***	***Points***	***Points X Weight***
1. Occupant in Residence		T	Continuing compliance with these standards is required. This includes continuing maintenance of buffering, screening, parking spaces and other improvements required for compliance.								
2. Dimensional Requirements	Table 2	T									
3.a. Indoor Space: C, GMU	1500 SF	T									
3.b. Indoor Space: LDR, MDR, HDR	750 SF	T									
4.a. Outdoor Activity: Setbacks	Table 2	T	deeper setbacks may be required								
4.b. Outdoor Activity: Buffer	buffer/screen		T	2	(-2/+2)						
4.b. Outdoor Activity: LDR	buffer/screen		T	3	(-2/+2)						
4.b. Outdoor Activity: MDR	buffer/screen		T	4	(-2/+2)						
4.b. Outdoor Activity: HDR	buffer/screen		T	4	(-2/+2)						
5. Parking/ Traffic Generation			T	4	(-2/0)						
6.a. Parking Spaces	Table 3	T									
6.b. Buffer/Screen Parking	buffer/screen		T	3	(-2/+2)						
7.a. Nuisances: NPDES	state	T									
7.b. Nuisances: Air Quality	state	T									
7.c. Nuisances: HazMat	fire code	T									
7.d. Nuisances: Outdoor Lighting	no additional	T									
7.e. Nuisances: Dust, Smoke		T									
7.e. Nuisances; Glare, Heat		T									
7.g.. Nuisances: Noise		T									
8. Solid Waste		T									
9. Signs	4 SF	T									

10.a Commercial Vehicle	10,000 GVW	T					
10.b. Vehicle Service/Repair	2 only	T					
11. Operating Hours		T					
To receive a CUP, projects must comply with ALL absolute standards and have a cumulative score of zero or more on the relative standards.						sum of scores >	
			number of absolute standards with which project fails to comply >				

(Ord. 2021-2, passed - -2021)

COMMERCIAL DEVELOPMENT STANDARDS

§ 153.415 COMMERCIAL DEVELOPMENT STANDARDS.

This chapter provides detailed standards with which potentially compatible commercial uses must comply to receive a conditional use permit (CUP). The Planning Commission shall approve any application for a CUP that complies with these standards. Compliance means that the proposal meets all absolute standards of this chapter and has a cumulative score of zero or better on the relative standards. Compliance with the relative standards adopted here will be determined by the Planning Commission using the scoring range and weights adopted on the commercial use checklist that is located in § 153.416.

(A) Are there locational constraints on commercial development in Boulder? Yes. Commercial development is confined to parcels from which there is direct access to Utah Highway 12.

(B) Are there environmental constraints on commercial development in Boulder? Yes.

(1) There shall be no commercial development on sensitive lands, as defined in §§153.185 et seq., or within the Sensitive Lands, Hillside, and Mesa Tops Overlay District established by §§ 153.235 et seq.

(2) Commercial development must provide a vegetated buffer along all watercourses, permanent and intermittent, including irrigation works and wetlands. Where feasible, the buffer along a watercourse shall include the entire riparian or wetland area and an additional upland buffer of at least twenty five feet (25'). Where the Planning Commission finds that it is not feasible to include the entire riparian or wetland area, the minimum buffer along a watercourse or around a wetland, shall be fifty feet (50'). The minimum buffer along an irrigation ditch shall be determined in consultation with the owner of the ditch. Irrigation works may, with permission of the owner, be moved underground.

(3) Commercial development is encouraged to avoid slopes of fifteen percent (15%) to thirty percent (30%).

(4) An exception may be made to allow utilities and pedestrian trails, or, where the Planning Commission finds that no other vehicular access is feasible, an access drive to cross watercourses and their buffers or moderate slopes. Where a crossing is permitted, it shall take the shortest feasible route and disturb the minimum area necessary for its safe functioning.

(5) The siting and design of commercial buildings and outdoor spaces is encouraged to preserve views and make use of the site's natural and cultural features.

(C) Must existing vegetation be retained during construction and occupancy of a commercial development? In some cases.

(1) The removal of existing perennial vegetation, particularly trees, that provides buffering, shade, and/or other functions is discouraged.

(2) All vegetation preserved in compliance with these standards shall be protected during construction, including clearly marking the permitted limits of grading and, where necessary, the installation of tree wells or other barriers.

(D) Must commercial development manage its storm water runoff? Yes.

(1) All development must comply with Utah's Storm Water Management Program.

(2) The Town prefers that runoff be absorbed as near its point of origin as possible. Curb and gutter will not ordinarily be permitted, but the Planning Commission may approve an exception where the use of curb and gutter clearly results in more effective storm water management.

(E) Must commercial development provide utilities and access in accord with Town standards? Yes.

(1) Utilities must be provided as required by §§ 153.185 et seq. and Utah law.

(2) UDOT approval is required for access to Highway 12.

(3) Points of access (driveways) to town or county roads shall have a minimum width of twenty two feet (22') and meet all applicable state and county standards.

(4) Undergrounding of utilities is encouraged.

(F) Must commercial development comply with the dimensional requirements of §153.119? At a minimum, yes. The Planning Commission may, however, condition approval of a commercial use on the provision of setbacks deeper than those established by § 153.119 where it finds that a greater distance from property lines or public ways is necessary to mitigate potential impacts of the proposed commercial use.

(G) Is the scale of proposed commercial uses directly limited? Yes.

(1) Commercial uses for which more than fifteen (15) total parking spaces would be required by §153.120 are prohibited in the LDR.

(2) Commercial uses for which more fifty (50) total parking spaces would be required by §153.120 are prohibited in the GMU.

(3) Where there is a dwelling on a parcel that has a commercial use, the parking associated with that dwelling may be in addition to what is permitted for the commercial use.

(4) Land use intensity - as measured by the floor area ratio and lot coverage - is encouraged to be compatible with that on neighboring properties.

(H) Can a commercial use have outdoor workspace or store materials outdoors? Potentially. Outdoor workspaces and the outdoor storage of materials, supplies, equipment, vehicles, or will be evaluated using the following standards.

(1) At a minimum, outdoor workspace and storage must fall within the setbacks required by §153.119. Deeper setbacks may be required for compliance with division (F), above.

(2) The effective buffering or screening of outdoor workspaces or storage is encouraged. The lack of irrigation water to support effective landscaping is a valid reason for a finding that a proposed commercial use fails to comply with this standard.

(3) Outdoor workspaces and/or storage must not occupy required parking spaces.

(I) Can a commercial use have outdoor sales space? Potentially. Outdoor sales spaces will be evaluated using the following standards.

(1) Outdoor sales areas must fall within the setbacks required by §153.119. Deeper setbacks may be required for compliance with division (F), above.

(2) Outdoor sales areas may not occupy more than ten percent (10%) of the parcel's street frontage up to a maximum of forty feet (40').

(3) The landscaping of outdoor sales spaces is encouraged. The lack of irrigation water to support effective landscaping is a valid reason for a finding that a proposed commercial use fails to comply with this standard.

(4) Outdoor sales must not occupy required parking spaces.

(J) Are there limits on parking or traffic generation for commercial development? Potentially.

(1) Commercial uses that are reasonably expected to generate parking or traffic congestion along town roads or Highway 12, or that have the potential to obstruct access to other properties are discouraged prohibited. The potential for congestion will be determined by the Planning Commission using the scoring range and weight adopted on the commercial use checklist. Among other things, In making a finding that there will be parking or traffic congestion, the Planning Commission may consider parking and traffic generated by deliveries and the possibility that the proposed commercial use will offer classes or stage events. The Commission may table consideration of an application pending completion, at the applicant's expense, of a traffic study by qualified professionals.

(2) Approval of a CUP may be conditioned on the installation of improvements that will fully mitigate reasonably expected congestion. Such improvements shall be made at the developer's expense.

(K) Must a commercial use provide off-street parking? Yes, as required by the following standards.

(1) Off-street parking must be provided at the rate set by §153.120.

(2) Excessive off-street parking is prohibited. This means that a use may provide no more than four parking spaces more than the minimum set by § 153.120.

(3) Uses that are intended or reasonably expected to serve the traveling public, specifically including, but not limited to, lodging and restaurants, must provide at least one off-street parking space that is suitable for recreational vehicles plus one additional recreational vehicle parking space for every ten (10) spaces that use is required to provide. No additional recreational vehicle parking space must be provided where fewer than ten (10) spaces are required.

(4) Off-street parking is not permitted within the front setbacks established by §153.119.

(5) Off-street parking is discouraged from occupying more than sixty percent (60%) of the frontage of a commercial

development (for corner lots, the frontage along the busiest street).

(6) Effective buffering or screening of off-street parking areas is encouraged.

(7) Provision of internal landscaping within off-street parking areas that include ten (10) or more spaces is encouraged.

(L) Are commercial uses encouraged to moderate their visual impact, as seen from the road? They are. The long axis of commercial buildings is encouraged to be perpendicular rather than parallel to the road (for buildings on a corner lot, perpendicular to the busiest road). See also division (T)(3).

(M) Must commercial uses make proper provision for solid waste storage and disposal? Of course.

(1) All applications for CUPs for commercial uses shall show how any solid waste generated will be properly stored and disposed of. The Planning Commission may reject an application for a CUP for a commercial use upon finding that the proposed provisions for solid waste storage and disposal are inadequate.

(2) Proper storage includes ensuring that solid waste is not accessible to animals and that blowing waste will not become a nuisance.

(N) Are there restrictions on potential nuisances generated by commercial uses? Yes.

(1) No commercial use shall require an UPDES permit that is required by state law.

(2) No commercial use shall channel surface run-off onto another property, into irrigation works or a storm water treatment pond, or onto a public way except in compliance with an approved storm water management plan and with permission of the property owner(s).

(3) No commercial use shall require an air quality permit this is required by state law.

(4) Commercial storage, processing, use, and disposal of hazardous materials is not permitted. It is recognized, however, that some compatible commercial uses may use small quantities of hazardous materials (paint, solvents, and the like). The use of hazardous materials is permitted only to the extent allowed by and in compliance with NFPA 1, the 2006 Uniform Fire Code.

(5) All outdoor lighting fixtures shall bear the International Dark Sky Association Fixture Seal of Approval.

(6) No commercial use shall aim or direct light onto another property or public way.

(7) No commercial use shall result in blowing dust or smoke that adversely affects adjoining properties or the use of public ways.

(8) No commercial use shall result in radiant heat or glare from welding equipment or other sources of intense heat or light that adversely affect adjoining properties or the use of public ways.

(9) No commercial use shall generate sound that adversely affects adjoining properties.

(10) Compliance with the Utah Noxious Weeds Act, Utah Code, Title 4, Chapter 17, is required.

(O) Must commercial uses make proper provision for solid waste storage and disposal? Of course.

(1) All applications for CUPs for commercial uses shall show how any solid waste generated will be properly stored and disposed of. The Planning Commission may reject an application for a CUP for a commercial use upon finding that the proposed provisions for solid waste storage and disposal are inadequate.

(2) Effective buffering or screening of solid waste receptacles is encouraged.

(3) No use shall serve food primarily in disposable containers, except when such containers are required for take-out service during a public health emergency.

(P) Can commercial uses have signs? Yes, but only in compliance with the requirements of §§153.185 et seq.

(Q) Can the operating hours of home businesses be restricted? Yes. The Planning Commission may condition approval of a commercial use on limited operating hours.

(R) Are drive-throughs or drive-ins allowed? No. Drive-through windows and facilities for drive-in service are prohibited in Boulder. This standard does not prohibit curbside service for people with mobility limitations or during a public health emergency.

(S) Are standardized commercial uses allowed? No. Commercial enterprises that are required to use standardized features including architecture, décor, menus, signs, and/or uniforms by contractual, franchise, or other agreements are prohibited.

(T) Can commercial uses include accessory dwellings? Yes.

(1) Accessory dwellings for the owner and/or employees are permitted as part of a commercial use.

(2) Provision of affordable housing for employees as part of a commercial development is encouraged.

(U) Does the Town encourage new or substantially rebuilt commercial buildings to comply with certain design standards?

Yes. Compliance with these standards will be determined by the Planning Commission using the scoring range and weight adopted on the commercial use checklist.

(1) Reflectivity: The use of highly reflective building materials, including large expanses of metal and/or glass is discouraged. This standard is not intended to prohibit or discourage the use of solar power.

(2) Color: New or substantially rebuilt commercial buildings are encouraged to use earth tones for the bulk of their facade. Bright accents in the form of trim, doors, or possibly other architectural details are not discouraged.

(3) Building Lines: Long, uniform building lines are discouraged. There are numerous ways to comply with this standard, depending on the scale and use of the building, including varying the pitch of the roofline, varying the building footprint, placement of windows and doors, and adding architectural details, potentially including changes in color or the texture of the siding.

(4) Detached Forms: The use of detached forms - a cluster of smaller buildings rather than one larger structure - is encouraged for lodging and commercial development that will have multiple tenants.

(V) Are any commercial uses specifically encouraged because of their contribution to the local economy? Yes. Commercial uses that process and sell primarily local agricultural products and/or primarily the creations of local artists or artisans are encouraged.

(W) Does the Town regulate telecommunications facilities? Yes, but not using the provisions of this chapter. Please see Ordinance 2020-3.

(X) Does Boulder have additional standards for campgrounds, including RV parks? Yes. Campgrounds, including RV parks, must comply with the standards of § 153.430.

(Y) Is Water-Wise Landscaping Encouraged? Water-wise landscaping is encouraged. No landscaping encouraged by this ordinance shall receive a positive score (it may receive a zero) if water-wise techniques are not used.

(Z) Does Boulder have additional standards for guest ranches? Yes.

(1) The minimum required acreage for a guest ranch is 55 acres.

(2) The lodge, bunk houses, or cabins cumulatively shall include not less than four nor more than tem overnight guest rooms. Kitchens, dining areas, rest rooms, storage, and other shared indoor facilities do not count as guest rooms.

(3) The Planning Commission may require deeper setbacks for guest ranches than those required by the Table of Development Standards where it finds that the additional depth is needed to mitigate potential conflict with adjoining uses.

(AA) How will compliance with these standards be ensured? A certificate of occupancy is required for all commercial developments. No such certificate shall be issued until all improvements, including, but not limited to, landscaping, screening, parking areas, off-site traffic mitigation, required for compliance with any of the standards adopted here are in place. A CUP is subject to revocation, as provided in §§ 153.150 et seq.

(Ord. 2021-2, passed - -2021; Ord. 2021-5, passed 11-4-2021)

§ 153.416 RESERVED.

CAMPGROUND AND RV PARKS

§ 153.430 ADDITIONAL STANDARDS FOR CAMPGROUNDS, INCLUDING RV PARKS.

(A) Minimum front, side, and rear setbacks of 40 feet are required for campgrounds and RV Parks. The Planning Commission may reduce the requirement for side and rear setbacks to as little as 20 feet where there is existing or proposed vegetation or a break in terrain that effectively screens the campground from neighboring properties.

(B) There may be no more than 30 units, including RV sites, tents, and cabins. One unit reserved for the use of the owner or an employee does not count toward the 30.

(C) The maximum number of campsites, including RV sites, tents, and cabins, per acre shall be ten.

(D) Because all campgrounds and RV Parks must be directly accessible from UT-12, an access permit from UDOT will be required.

(1) The minimum width of a campground or RV Park access drive shall be 24 feet unless otherwise specified by UDOT.

(2) The depth of a campground or RV Park access drive (distance from highway to first intersecting road or parking) must be at least 60 feet unless UDOT requires more depth.

(3) Turning radii of campground or RV Park access drives must be suitable for motor homes and large trailers.

(E) The following safe circulation and parking standards within a campground or RV park must be met.

(1) Campground and RV Park drives, parking spaces, and RV pads shall have properly drained all weather surfaces. A stormwater management plan may be required (see § 153.415(Z) of the Commercial Development Standards).

(F) One-way campground and RV Park drives shall be at least 12 feet wide. Two-way campground and RV Park drives shall be at least 24 feet wide.

(1) Parking shall be limited to designated spaces and RV pads. Parking shall not be permitted along campground and RV Park drives. “No Parking” signs or barriers shall be installed as necessary.

(2) Each tent site shall have at least one designated parking space within 200 feet.

(3) RV pads shall be at least 45 feet deep.

(4) A minimum of two common (not designated for specific sites) parking spaces shall be provided in every campground or RV Park. An additional two common parking spaces shall be provided for each ten RV or tent sites.

(G) *Improvements required in a campground:*

(1) *RV Pads.* Each RV pad shall have water, sewer, and power connections. RV pads may also have a fire ring or grill on a nonflammable surface. Fires shall be confined to that area. There shall be an approved garbage container within 300 feet of each RV pad.

(2) *Tent Sites.* Each tent site shall have access to potable water within 300 feet and a safe outdoor cooking area, developed with a fire ring or grill on a nonflammable surface. Fires shall be confined to that area. There shall be an approved garbage container within 300 feet of each tent site.

(3) *Water and Sewage Systems.* Water and sewage systems shall be designed, installed, and maintained in compliance with state law. Fire hydrants may be required by the fire code.

(4) *Restrooms and Showers.* Public restrooms, including toilets, sinks and showers, shall be provided in compliance with Utah law, specifically Utah Health Rules R392-301 or their successor.

(5) *Park Office.* Each campground or RV Park shall provide a permanent or portable office structure. This structure may include restrooms and showers, as required by division (4), above. It may also incorporate a dwelling unit for the owner or employees. A separate dwelling unit may also be permitted.

(H) *Requirements for the continuing operation of campgrounds and RV Parks:*

(1) Every campground or RV Park shall have an attendant or host. A phone number at which the attendant or host may be reached shall be prominently posted on the exterior of the office and in each separate restroom or shower building.

(2) All fuel dispensing equipment and its use shall comply with the currently applicable fire code.

(3) Wheels and axles shall not be removed from vehicles in the park except for emergency or temporary repair.

(4) Since power connections are required, the operation of generators is prohibited.

(5) Garbage containers shall be resistant against animals, tipping, and wind, including the provision of fenced enclosures if required by the Planning Commission. No garbage container may be placed within a required setback.

(6) There shall be regular solid waste removal. The Planning Commission may require submission of a solid waste service contract as a condition of continuing compliance with the CUP.

(I) Continuing maintenance of all campground and RV Park improvements, including landscaping, is a condition of CUP approval. Failure to maintain the campground or RV Park as approved may result in revocation of the CUP.

(J) Campgrounds and RV Parks may not be subdivided.

(Ord. 2021-5, passed 11-4-2021; Ord. 2024-2, passed 9-5-2024)



Board of Adjustment & Appeals

- I want to thank the current and past members of the Board of Adjustment for their service.

  Jabe Beal, Jeanne Zeigler, Ray Gardner, Susan Kelly

  Nick Vincent, Elizabeth Julian, others over the years.

- What I am proposing is not a criticism of the current town Board of Adjustment, but addresses problems that are intrinsic to any citizen-based appeal authority.



Citizen Appeal Board Issues

- The administrative appeal process is the first step in resolving potential litigation.
  - Citizens are being asked to rule on complex legal issues.
  - Errors in procedure or documentation can lead to a court making a ruling unfavorable to the town.
- There is no advantage to have "local input" on appeals.
  - State law allows very limited discretion on land use variances.
  - Administrative decision appeals are based on legal specifics, not public opinion.



Small-town Specific Issues

- There are additional issues with a citizen appeal board in a small town like Boulder.
  - Citizens are being asked to serve as neutral arbitrators of issues involving neighbors, friends, or relatives.
  - We have a small pool of volunteers. BoA members are prevented from serving in other land use roles
  - Appeals are rare (0 in 5 years) that new board members do not benefit from the experience of existing members.



Administrative Law Judge

- Many jurisdictions appoint an attorney with land use expertise to serve as the appeal authority.
  - Impartial – decision is separated from local relationships
  - Ruling is made by someone with relevant training and experience
- Generally work is on a fee for service basis.
- Preliminary discussions with Craig Call who is the appeal authority for Grand County and many others. Former Utah Property Rights Ombudsman.
  - Sample engagement agreement provided.



Boulder, Appeal Authority

Recommendation:

Initiate the process of replacing the Board of Adjustment with a Administrative Law Judge.

Steps

1) *Because "appeals" is in Chapter 153 (Zoning Ordinance) refer the question to the planning commission. Draft charge in Packet.*
2) *TC reviews recommendation and decides on key policy issues for the ordinance.*
3) *Town Attorney to draft ordinance language.*
4) *Town Council public hearing, debate, and vote*
5) *Open request for proposals for Admin. Law Judge.*
6) *Sign fixed-term contract for appeal services as needed.*



Bullet Points - Charge to PC

- Review the information land use appeals from ULCT and the information provided by Mr. Call and any other background information the commission considers relevant.
- Consider the pros and cons of switching to an Administrative Law Judge for land use and administrative approval appeals.
- Consider how this change would affect administration of the zoning code and other town ordinances.
- Make a recommendation to the Town Council within two months.
- Motion “Assign John to write up the formal charge based on the discussion tonight and transmit it to the Planning Commission.”

§ 153.043 BOARD OF ADJUSTMENT.

The Town Board of Adjustment (hereinafter the "BOA") was heretofore created and established pursuant to the Act, or prior enactments thereof.

(A) *Powers and duties.* The BOA shall:

(1) Recommend to the Council and Commission amendments to the General Plan or any elements thereof, as the BOA considers necessary;

(2) Recommend to the Council and Commission amendments to any land use ordinance, including this chapter, and any amendments to any provision or requirements thereof, as the BOA considers necessary;

(3) Recommend to the Council and Commission amendments to any official maps, all provisions and requirements thereof, as the BOA considers necessary;

(4) Review and approve, approve with requirements, or deny all variance applications, with a finding of an unreasonable hardship, as required by the Act, and as provided herein;

(5) Render a decision on a determination of a legal non-conforming use, as provided herein;

(6) Render a decision on a determination of a legal non-complying structure, as provided herein;

(7) Render a decision on any other legal non-conformity, as provided herein; and

(8) Adopt bylaws, policies and procedures for the conduct of the duties and meetings of the BOA, for the consideration of applications and for any other purposes deemed necessary by the BOA; provided that, such bylaws, policies and procedures shall be approved by the Council before taking effect.

(B) *No authority.* The BOA shall have no power, jurisdiction or authority to consider any of the following:

(1) To hear any amendments, waivers or modifications to any of the standards governing the approval of any General Plan amendment application or any land use ordinance amendment application;

(2) To hear any amendments, waivers or modifications to the General Plan, any element, provision or map thereof, or any provision or requirement of any land use ordinance, including this chapter, any zoning districts maps and any official maps;

(3) To make any decisions or determinations that would have the effect of authorizing a use which is not identified in the tables of uses, as provided herein; and

(4) To hear or decide any matter or application not expressly identified by division (B)(1) above.

(C) *Qualifications for membership.* Members of the BOA shall be appointed by the Mayor, with the advice and consent of the Council.

(D) *Membership; appointment, removal, terms and vacancies.*

(1) The BOA shall be composed of five members.

(2) Members of the BOA may be compensated on a per diem basis, based upon meetings actually attended and reasonable and necessary expenses, as determined by the Council.

(3) All members shall serve a term of five years. No member shall serve more than two consecutive terms.

(4) The Council, after finding cause, may remove any member of the BOA for violation of this chapter or any policies or procedures adopted by the BOA following receipt of a written complaint filed against the member. The Council shall provide the member with a hearing, if requested.

(5) At an annual organizational meeting held the first regular meeting of the year, and at other times as required, the members of the BOA shall elect one of their members as Chair and one of their members as Vice-Chair. In the absence of the Chair, the Vice-Chair shall act as Chair and shall have all powers of the Chair. The Chair and Vice-Chair shall serve a term of two years. No member shall serve as Chair for more than two consecutive terms.

(6) The Chair or, in the Chair's absence, the Vice-Chair of the BOA shall be in charge of all proceedings before the BOA, and shall take such action as shall be necessary to preserve order and the integrity of all proceedings before the BOA.

(E) *Recording Secretary.* The Council shall appoint a recording secretary to serve the BOA. The Recording Secretary shall keep the minutes of all proceedings of the BOA, which minutes shall be the official record of all proceedings before the BOA, attested to by a majority of the members of the BOA voting. The Recording Secretary shall be compensated as approved by the Council.

(F) *Quorum and necessary vote.* No meeting of the BOA may be called to order, nor may any business be transacted, without a quorum consisting of at least three members of the BOA being present. The Chair shall be included for purposes of establishing a quorum and shall act as a voting member of the BOA. All actions of the BOA shall require the concurring vote of a majority of the total members of the BOA.

(G) *Meetings, hearings and procedure.*

(1) Regular meetings of the BOA shall be held as required.

(2) Special meetings may be requested by the Council, the Chair of the BOA or a majority of the members of the BOA.

(3) If a matter is postponed due to lack of a quorum, the Chair of the BOA shall reschedule the matter to the next available meeting. The Recording Secretary shall notify all interested parties and all members of the BOA of the date when the rescheduled matter will be heard.

(H) *Effective date of decisions.* All decisions of the BOA shall become effective on the date of the meeting when the decision is made unless a different date is designated in the rules of the BOA, or the BOA designates a different date when the decision is made.

(I) *BOA members as volunteers.* Members of the BOA shall be deemed “volunteers” for the purposes of town ordinances, rules, regulations and policies concerning personnel; provided, however, BOA members shall be included in the definition of “employee” for the purposes of the state’s Governmental Immunity Act.

(Ord. 46, passed 8-28-2001; Ord. 21D, passed 1-7-2004; Ord. 59, passed 5-8-2008, § 304)