

ORDINANCE NO. 2, SERIES 2009
AN ORDINANCE ADOPTING REVISED SUBDIVISION REGULATIONS AND
PROVIDING FOR THE ENFORCEMENT THEREOF

WHEREAS, by Ordinance No. 8, Series 2001, the Board of Trustees adopted subdivision regulations for the Town pursuant to C.R.S. 31-23-214; and

WHEREAS, the Board of Trustees has determined that the adoption of revised subdivision regulations is necessary for the public health, safety and welfare; and

WHEREAS, the Board has determined, that in connection with the enforcement of subdivision regulations, the Board should continue to assume and exercise the powers of a municipal planning commission as provided by C.R.S. 31-23-227; and

WHEREAS, the Board has given public notice and held a public hearing on the revised subdivision regulations adopted herein as provided in C.R.S. 31-23-214; and

WHEREAS, the revised subdivision regulations have been published in pamphlet as provided by C.R.S. 31-23-214 and are available for inspection and distribution to the public; and

WHEREAS, the revised subdivision regulations reflect a less complicated, faster and fairer method of providing for subdivision of land within the Town, and the 2009 revisions provide for a procedure for variance of certain subdivision requirements to facilitate the preservation of historic structures,

NOW, THEREFORE; BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF JAMESTOWN, COLORADO:

Section 1. Power of the Board: The Board of Trustees hereby assumes and shall exercise any power granted to or duly placed upon a municipal planning commission by Part 2 of Article 23 of Title 31, C.R.S.

Section 2. Adoption of Regulations: The Town of Jamestown Subdivision Regulations published in Pamphlet SR2009, dated May, 2009 are hereby adopted. It is unlawful to erect, construct, reconstruct, use or alter any building or structure, or to use any land in violation of any provision of these regulations.

Section 3. Violation of Regulations: If any building or structure is, or is proposed to be, erected, constructed reconstructed, altered or used, or any land is, or proposed to be, used in violation of any provision of the Jamestown Subdivision Regulations as adopted herein; the Town, in addition to any other remedies by law, may institute an appropriate action to prevent, adjoin, abate or remove the violation to prevent the occupancy of the building, structure or land, or to prevent any illegal act on, or use of, such premises.

Section 4. Unlawful Subdivision: Whoever, being the owner or agent of the owner, of any land located within a subdivision, transfers or sells, agrees to sell, or negotiates to sell, any land by reference to or exhibition of, or by use of a plat of subdivision before such plat has been approved by the Board of Trustees and recorded and filed in the office of the Boulder County Clerk and Recorder, shall pay a penalty of \$100.00 to the Town for each lot or parcel so transferred or sold, or agreed, or negotiated to be sold. The description of such lot or parcel by metes and bounds in the instrument of transfer, or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from remedies provided herein. The Town may enjoin such transfer, sale or agreement by action brought in any court of competent jurisdiction.

Section 5. Penalty. It shall be a violation of this ordinance for any person to do any act or omission which is declared to be unlawful in this ordinance, or to comply any terms and conditions hereof. Such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any provision of this ordinance is committed, continued or permitted. Upon conviction thereof, such person shall be punishable by a fine of not more than one thousand dollars, by imprisonment for not more than one year, or by both such fine and imprisonment.

Section 6. Repeal. All ordinances or parts of ordinances, of the Town of Jamestown, Colorado in conflict herewith are hereby repealed, and specifically Ordinance No. 8, Series 2001, and the subdivision regulations adopted by such Ordinance No. 8, Series 2001, are hereby repealed in their entirety. The repeal of any provision of any ordinance by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 7. Severability. If any provision of this ordinance, or application thereof to any person or circumstances, be held invalid, such invalidity shall not affect other sections or provisions of this ordinance which can be given effect without the invalid sections of this ordinance, are declared severable.

**INTRODUCED, READ, ADOPTED, APPROVED, SIGNED AND ORDERED PUBLISHED IN FULL
THIS 4th DAY OF MAY 2009.**

TOWN OF JAMESTOWN, COLORADO



Kenneth Lenarcic, Mayor

Attest:



Mary Ellen Burch, Town Clerk

Pamphlet SR2009
Town of Jamestown Subdivision Regulations

May 2009
Article I – General Provisions

Section 1. Title:

- 1.0 These regulations shall be known and cited as the Town of Jamestown Subdivision Regulations, Pamphlet SR2009.

Section 2. Purpose:

- 2.0 These regulations are designed and enacted with the following intentions:
- To encourage well planned subdivisions in order to preserve the public peace, health and safety and to provide for an orderly, efficient, integrated development in accordance with established Town policies.
 - To establish minimum uniform standards for subdivision design, taking into account environmental factors and establishing minimum engineering criteria and performance guarantees.
 - To establish adequate, efficient and safe rights of way and easements for streets, utilities, drainage and other site plan needs.
 - To safeguard both interests of the public and the applicant, improve land records and boundary monumentation and ensure equitable processing of subdivision plats.
 - To give reasonable assurance that an adequate water supply, sanitation facilities, applicable utilities, access, fire protection and school facilities are available for the development.
 - To help preserve the natural beauty of the land; help protect the vegetative cover of natural areas, help prevent the pollution of surface water, subsurface water and air; to help regulate development in areas of geological and topographical hazards (including, but not limited to; floodplains, areas of unstable soils, excessive slopes); help protect against loss or injury from inappropriate use of land; and otherwise help preserve and enhance both the safety and quality of the environment.

Section 3. Authority:

- 3.0 No final plat of a subdivision shall be approved and accepted by the Town unless it conforms to the provisions of these regulations. These regulations have been prepared and enacted in accordance with the applicable Colorado statutes as amended.

Section 4. General Regulations:

- 4.0 Whoever divides or participates in the division of a lot, tract or parcel into two or more lots, sites or other divisions of land for the purpose, whether immediate or future, of sale, building development, or other use, who desires to build a structure upon any tract of land which has not been previously platted shall make the transaction subject to the provisions of these regulations and a plat, therefore must be submitted to, and accepted by, the Town according to the terms set forth herein. The terms of these regulations shall also include and refer to any replat or division of land previously

subdivided or platted.

- 4.1 The provisions of these regulations shall be deemed not to apply to the following:
- a.) Any division of a tract of land which creates parcels of land each of which comprises 35 or more acres of land, none of which is intended for use by multiple owners, when such subdivision does not involve the creation of any new streets or easements of access as may be determined by the Town Board.
 - b.) Any division of land to heirs through an estate proceeding, unless utilized for the purpose of evasions of these regulations.
 - c.) Unless for subdivision or construction purposes, any transfer of a part of another lot or parcel which does not create an additional lot.
 - d.) Any division of land by foreclosure or a deed of trust.
 - e.) Any division of land solely for the purpose of providing right-of-way to the Town for the widening or improvement of any Town Street.
- 4.2 No plat of a subdivision of land shall be used for purposes of sale or building development or filed and recorded with the Boulder County Clerk and Recorder until approved by the Town Board, with such approval entered in writing on the plat, and signed by the Town Clerk and the Mayor.
- 4.3 No person may submit an application for a subdivision approval unless the subdivision plan or plat provides, pursuant to C.R.S. Section 43-2-147, that all lots and parcels created by the subdivision will have access to the state highway system in conformance with the state highway system code. No building shall be erected on any lot, nor shall a building permit be issued for a building, unless there is access to a public street.
- 4.4 Every plat which is approved and executed on behalf of the Town pursuant to these regulations shall be recorded in the office of the Boulder County Clerk and Recorder.

Section 5. Jurisdiction:

- 5.0 These regulations are applicable within the following described areas:
- All Land located within the legal boundaries of the Town.
 - Land in process for annexation for which an annexation petition has been filed.
 - All land located within three miles of the Town limits, and not located in any other municipality; for the purpose of control with reference to major street plan which may be contained in any Town Comprehensive Plan.

Section 6. Schedule of Fees:

- 6.0 There shall be paid by the applicant the following fees for each subdivision plat submitted for approval. At the time of submission of the preliminary plat, an advance deposit of such fees shall be paid to the Town Clerk in the amount(s) estimated by the Town Clerk to cover the item cost.

- 6.1 Schedule of Fees:
- Preliminary Plat submittal: \$50.00 per proposed subdivided lot or unit.
 - Final Plat submittal: \$ 50.00 per proposed subdivided lot or unit.
 - Boulder County Clerk and Recorder Fees.
 - All required Town consultant review and mailing cost.
 - All required publication, mailing and posting costs.
- 6.2 Except for submittal fees, the Town shall refund to the applicant any amounts deposited that are in excess of the actual costs for which the fees were estimated and the applicant will pay to the Town any amounts in excess of actual cost. No final plat shall be recorded until all applicable fees and costs have been paid.

Article II – Procedure

Section 7. Preliminary Plat:

- 7.0 The applicant (subdividing party) shall submit to the Town Clerk nine copies of a Preliminary Plat that includes, or is accompanied by, all documentation listed in this section. The application shall be accompanied by the non-refundable submittal fee set forth in Section 6. The Town Clerk shall advise the applicant of the total estimated additional fees for processing of the application within one normal working day of submittal. The applicant shall deposit with the Town cash or other good funds in the amount of such estimated additional fees within 72 hours after the Town Clerk has advised the applicant of the amount of such fees. Upon receipt of a complete application and all required fees and deposit, the Town Clerk shall ensure that the complete subdivision application is included in the meeting packet of the next regular Town Board meeting held at least seven days thereafter. The meeting agenda shall include name of applicant and subdivision location, and any agenda including a subdivision application shall be posted not less than 48 hours prior to the scheduled meeting.
- 7.1 The Town Clerk shall refuse to accept any application or fees if the application is incomplete.
- 7.2 The Plat shall include the following:
- a.) Proof of ownership by the applicant of the subdivided properties or proof acceptable to the Town that the applicant is proceeding under the authority of the owner of record.
 - b.) Preliminary Plat: which shall include:
 - Total acreage of the subdivision.
 - Total number of lots and acreage for each lot. For each lot; accurate dimensions of all boundaries, streets, alleys, easements, areas reserved for public use or other features. The total, gross acreage for each lot shall not be less than 2.3 acres, excepting any lots for which a variance to the minimum lot size requirement is requested pursuant to Section 12.
 - Legal description of properties to include township, range section, quarter-section, block and lot numbers.
 - All dimensions both linear and angular shall be determined by an accurate control survey in the field which must balance and close within a limit of one in ten

thousand. No final plat showing plus or minus dimensions shall be accepted or approved.

- Survey notes of perimeter survey and copies of all monument records in conformance with C.R.S. Section 38-51-101 et seq., with a statement by the land surveyor that the survey was performed in accordance with C.R.S or under his direct responsibility, supervision and review. The notes shall include a statement by the surveyor explaining how bearings were determined.
 - Seal and signature of registered land surveyor.
- c.) A sketch showing each lot in the subdivision, proposed and existing streets, roads, building locations, septic systems, sewers, wells, waterlines and mains, electric utilities, poles lines (above and below ground), culverts, geological features or hazards, bridges and other features. The sketch shall take into account Boulder County septic regulations, state well restrictions, existing utilities, and applicable laws, regulations and ordinances affecting setback, driveway, slope, grading and roads. Minimum sketch plan scale shall be one inch to 100 feet.
- d.) A statement of distance from the subdivision lots or units from the nearest Town water main which shall include a proposal for providing potable water to each lot or unit.
- e.) Evidence acceptable to the Town that provision has been made for facility sites, easements, and rights of access for electrical and natural gas utility service sufficient to ensure reliable and adequate electric or, if applicable, natural gas service for the subdivision. Submission of a letter agreement to such effect between the subdivider and serving utility shall be sufficient to meet this requirement.
- f.) A list of all property owners within 300 feet of any subdivision boundary; surface and mineral, and lessees of mineral owners as their names appear upon the plats or records of the County Clerk and Recorder and as their addresses appear in a telephone or other directory of general use in the area of the property, or in tax records of the county. The applicant shall be solely responsible at its expense for compliance with the mineral owner and lessee notice requirements of C.R.S. Section 24-65.5-101 et seq., if applicable to the application, and prior to opening of the hearing on the application, the applicant shall in writing certify to the Town that the applicant has provided notice as required by such law. The certification shall be in the form required by the Town and shall be a condition of final approval of the application. .
- g.) An erosion control, revegetation and drainage plan. Plan shall include a drawing showing roads, existing and proposed, driveways, culverts, topography areas of less than 5% slope, 5-15% slope, 15-30% slope and greater than 30% slope. Areas existing and proposed erosion and excavation shall be illustrated and recovery addressed. Irrigated areas such as lawns, sod, gardens shall be limited to 2000 square feet if Town water is proposed. Natural drainage shall be shown and proposed culverts and ditching shall be reasonably adequate to protect adjacent property, roads and all subdivision lots.
- h.) If any part of the subdivision falls within a floodplain, the applicant shall prepare a sketch and statement regarding location of any proposed building or affected feature and the methodology and process for compliance with the Town Floodplain ordinance.

This statement shall be signed by the applicant and the Town Floodplain Administrator. If the subdivision is not located in any floodplain the applicant shall prepare a certification to that effect to be signed by the applicant and the Town Floodplain Administrator.

- i.) A statement outlining the proposed means by which the Applicant intends to meet any guarantees for public improvements in accordance with Section 10 of these regulations.

Section 8. Preliminary Plat Processing:

- 8.0 The preliminary plat should be presented to the Town Board for informal review at a regularly scheduled Board meeting as provided in Section 7.0. This informal review is to provide an opportunity for the Board to examine the application and supporting documents; to exchange information with the Subdivider concerning the Town's development goals and policies; and to suggest recommendations for changes that are deemed beneficial or that may bring the application into compliance with these regulations. No action shall be taken by the Town Board on the preliminary plat as part of this informal review other than to accept transmittal of the application and set a public hearing on the application, nor shall the Town Board be bound by any comments or discussion during this informal review. As a result of the informal review, the applicant in its discretion has the option of moving forward with the application, with or without modifying the application, withdrawing the application, or requesting it be tabled. If the application is complete as provided in these regulations the Board may vote to accept transmittal of the application and set a date for a public hearing thereon. The Board shall ensure that the Water Plant Operator, Fire Department, Town Attorney and other appropriate Town entities have an opportunity to review and provide input on the Preliminary Plat at or prior to the public hearing.
- 8.1 The Town Board shall hold a Public Hearing to consider the application between 30 and 60 days after its informal review.
- 8.2 The Town Clerk shall cause public notice of the hearing to be published in a newspaper of general circulation within the Town at least 30 days prior to said hearing.
- 8.3 The property to be subdivided shall be posted 30 days prior to said hearing. The posting shall be along the frontage of the property on an existing street. If no such frontage exists the posting shall be generally posted within the Town. The applicant shall perform this posting as follows:
 - The posted notice shall contain in minimum four inch letters **"NOTICE OF PROPOSED SUBDIVISION"** and **"PUBLIC HEARING"**, and the **DATE, LOCATION** and **TIME** of the public hearing in at least two inch letters.
 - The posting shall be securely fixed and reasonably weather resistant. The applicant shall ensure that the posting remains legible and on the property until the hearing date and time.
- 8.4 The Town Clerk shall forward to each surface owner, listed in Section 7.2 (e), by certified mail, return receipt requested, notice of the Public Hearing not less than 30 days prior to the hearing. The applicant shall forward to mineral estate owner the notice required by C.R.S. Section 24-65.5-101 et seq. no less than 30 days prior to the hearing. Prior to opening the hearing, the

applicant shall in writing certify that notice has been provided to mineral estate owners the notice required by such Section. The certification shall be in a form acceptable to the Town and shall be a condition of final approval of any application.

- 8.5 Within 30 days after the close of the Public Hearing, or at such time thereafter as is mutually agreeable by the Town Board and the applicant, the Town Board shall approve, disapprove, or approve with modifications, the preliminary plat
- 8.6 Failure by the Board to act on the preliminary plat within 30 days of the close of Public Hearing shall constitute approval unless the applicant consents to an extension of such period.
- 8.7 If approved, the approval is valid for one year; any final plat consideration and filing of the subdivision must occur within one year. Failure to act on the final plat within this period shall nullify approval of the preliminary plat.

Section 9. Final Plat:

- 9.0 Within one year following the approval, or approval with modification(s) to the preliminary plat, the applicant shall provide a final plat in a form that is satisfactory to the Town.
- 9.1 The Final Plat must consist of nine copies of the proposed subdivision with all details required pursuant to preliminary plat approval. In addition, the applicant shall submit two copies drawn to a scale of one inch to 100 feet, on mylar sheets, 24 inches by 36 inches in size. If it is necessary to place the plat on more than one sheet an index map shall be included.
- 9.2 The final plat shall be submitted to the Town Clerk not less than 10 days prior to a scheduled Town Board meeting. The Town Clerk shall submit the final plat to the Mayor, and to the Town Attorney for review. If the review results in a finding that the Final Plat conforms to the preliminary plat and, if applicable, the subdivision agreement in Section 10, it shall be placed on the agenda for a next scheduled meeting with a recommendation for approval. If the review results in a finding of nonconformance, it shall be placed on the agenda with a recommendation for disapproval and the Town Attorney shall provide in writing an explanation of the problem(s) and recommendation for corrective actions. The Town Board shall hold a public hearing and act upon the submitted Final Plat within 60 days of receipt by the Town Clerk.
- 9.3 Prior to action by the Town Board on the final plat, the property shall be posted and the Clerk shall mail notices to surface interest owners as provided for a preliminary plat. The applicant shall also forward to mineral estate owner the notice required by C.R.S. Section 24-65.5-101 et seq. no less than 30 days prior to the hearing. Prior to opening the hearing the applicant shall in writing certify that notice has been provided to mineral estate owners the notice required by such Section. The certification shall be in a form acceptable to the Town and shall be a condition of final approval of any application.
- 9.4 Following approval of the final plat by the Town Board, it shall be signed by the Mayor and attested by the Town Clerk. The applicant shall submit the approved plat to the County Clerk and Recorder for recording. The applicant shall submit evidence to the Town Clerk documenting completion. No Building Permit shall be issued by the Town until the plat has been legally recorded.

- 9.5 If the Town Board disapproves the Final Plat, The Town shall submit, in writing, the reasons for disapproval, to the applicant within 15 days of disapproval.
- 9.6 In deciding whether to approve, approve with modification or disapprove a preliminary or final plat, the Town Board shall be guided by the following standards:
1. Whether the plat conforms to the criteria of these regulations;
 2. Whether approval of the plat will be consistent with the Town master plan, zoning requirements, and other development standards; and
 3. Whether the proposed subdivision will promote the purposes set forth in Article I of these Regulations.

Section 10. Subdivision Agreement:

- 10.0 This section applies if the subdivision will include roads, water lines, or any public improvements that will constructed on behalf of, or given over to the Town.
- 10.1 A form of guarantee acceptable to the Town must be furnished by the applicant to assure the installation of all required public improvements in an approved manner and in a reasonable period of time. The form may include cash, certified funds, letter(s) of credit, or performance and payment bonds. The form shall be agreed upon in accordance with a determination by the Town Attorney. The guarantee shall be in an amount not less than 125% of the estimated cost of the improvements as determined by the Town Board.
- 10.2 Prior to the presentation and acceptance of the final plat by the Town Board, the applicant shall execute an agreement with the Town, in a form satisfactory to the Town Board that guarantees shall be furnished for the construction of all required public improvements.
- 10.3 The agreement to furnish said guarantees shall be recorded to put purchasers and other interested parties on notice. The agreement shall be a covenant running with the land and shall be enforceable against the land and shall further provide that if at any time there is a breach of such agreement, the Town may withhold approval of all building permits, or certificates of occupancy within the subdivision until such breach or breaches are cured.
- 10.4 The agreement shall address pertinent public improvements including, but not limited to, all applicable; road grading and surfacing, curbs and gutters, sewer and water mains, storm sewers, water storage for potable water of fire protection, street signs, address systems, permanent reference monuments, electrical and telephone utility lines, and traffic control devices.
- 10.5 All costs, including legal and recording, associated with any agreement under this Section shall be paid for by the applicant, in addition to applicable fees in Section 6.

Article III - Standards

Section 11. Design Standards and Site Considerations:

- 11.0 The following elements shall be considered by applicants and incorporated into preliminary and final plat plans and supporting documents.
- 11.1 Subdivided lots shall provide desirable settings for buildings to be constructed and make use of natural land contour and setting to protect view and afford privacy to both subdivided and neighboring lots.
- 11.2 Steep land, areas of inadequate drainage, mining damage and other man made or natural hazard areas shall not be platted unless acceptable provisions are made by a registered engineer qualified in the pertinent field for elimination or control of the problem. Any such provisions shall be detailed on plans and specification prepared and certified by a registered professional engineer licensed in the State of Colorado. All development in the subdivision shall be carried out in conformity with the final plat.
- 11.3 Drainage areas shall be left in a natural state wherever possible and no encroachments shall be made on any natural channel. Any land within the floodplain may be platted only in accordance with the Town floodplain ordinance.
- 11.4 The arrangement of streets, lots, alleys, easements, and other elements of the proposed subdivision shall be consistent with these Regulations and otherwise be made to ensure protect the public health, safety and welfare; to preserve to the extent possible natural features; to ensure adequate and proper circulation of traffic; to ensure the safe and adequate provision of utilities and essential services; to provide desirable settings for buildings and other structures; and to afford privacy and protection from adverse or unnecessary noise, traffic, light or hazards both for residents within the subdivision and adjoining owners.

Section 12. Variance to Protect Historical Structures:

- 12.1 This Section applies to archeological sites, structures listed on the Boulder County, State or National registers of historic places, and sites or structures deemed historically significant by the Town Board due to age (over 100 years), historic event or other historic or archeological significance.
- 12.2 The Town Board may consider approval of a subdivision application that results in the creation of not more than two lots of less than 2.3 acres each when such subdivision shall ensure the survival, preservation, rehabilitation or restoration of a historic structure or archeological site. As part of the preliminary plat application, the applicant shall submit a statement of the bases for the variance request, which statement shall be accompanied by additional information available in support thereof, such as historical photos, records or copies of designations from County, State or National registries.

- 12.3 The means and extent of preservation, rehabilitation or restoration shall be made part of the subdivision agreement in Section 10. Structures shall be preserved, rehabilitated or restored in accordance with the *Secretary of Interiors Standards for Rehabilitation of Historical Buildings* unless the subdivision agreement specifically calls out the scope of work, timeline for completion and level of rehabilitation for the structure or site. Additionally, the Town Board may condition approval of any variance request under this Section upon the applicant's grant to the Town of a conservation easement in gross over the lot or lots containing the historically significant site or structure, limiting the uses of and structures upon such lot. Any such required easement shall be recorded at or prior to recording of the subdivision plat.
- 12.4 Prior to consideration of this variance option, the subdivider shall retain a licensed engineer to design and certify an onsite wastewater (septic) system(s) (OWS) that meet(s) the requirements of the Boulder County Department of Health. Such design shall be submitted with the preliminary plat. No final plat approval incorporating a variance under this Section shall be approved or recorded until the applicant has demonstrated compliance with the OWS requirements of the Boulder County Department of Health.
- 12.5 As part of the preliminary plat application, the subdivider shall identify and submit at least one alternative use of the site or structure for consideration by the Board. That alternative or other agreeable alternatives shall be included in the subdivision agreement or conservation easement if required (or both such agreement and easement) and shall determine the disposition of the subdivided property, site, or structure in the event that, for any reason, the structure or site cannot be preserved, restored or rehabilitated in accordance with the terms of agreement or easement.
- 12.6 All other applicable requirements of this pamphlet shall apply to subdivisions approved under this variance.