

ARTICLE 7

ENFORCEMENT - EAGLE COUNTY

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ENFORCEMENT
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SECTION 7-100. GENERAL

- A. Authority.** The provisions of these Land Use Regulations shall be enforced by the Board of County Commissioners and the County Attorney through their authority to abate any violations, and enjoin, restrain, and prosecute any person violating these Land Use Regulations pursuant to Colorado law.
- B. Unlawful to Violate These Land Use Regulations.**
- 1. Development or Use of Building, Structure or Land.** It shall be unlawful to develop, alter or use any building, structure, or land in unincorporated Eagle County in violation of these Land Use Regulations. Any person violating these Land Use Regulations shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than one hundred (\$100) dollars, or by imprisonment in the County Jail for not more than ten (10) days or both such fine and imprisonment. Each day during which such illegal action continues shall be deemed a separate offense. *(am. 05/01/07)*
 - 2. Subdivision.**
 - a. General.** Any subdivider or agent of a subdivider who transfers or sells land before a Final Plat for that land has been approved pursuant to the requirements of these Land Use Regulations and recorded or filed in the Office of the Clerk and Recorder shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred (500) dollars for each parcel or interest in subdivided land which is sold or offered for sale. All fines collected shall be credited to the General Fund of the County.
 - b. Injunction.** The Board of County Commissioners has the power to bring an action to enjoin any subdivider from selling subdivided land before a Final Plat for Subdivision for such subdivided land has been approved by the Board of County Commissioners.
 - c. Guarantee of Public Improvements.** The Board of County Commissioners or any purchaser of any lot, tract, or tract of land subject to Subdivision which is the security portion of a Subdivision Improvements Agreement shall have the authority to bring an action in any District Court to compel the enforcement of any Subdivision Improvements Agreement on the sale, conveyance, or transfer of title of any lot, tract, or tract of land or any other provision of the Subdivision Improvements Agreement. Such authority shall include the right to compel rescission of any sale, conveyance, or transfer of title of any lot, tract, or tract of land contrary to the provisions of any such restriction set forth on the plat or in any separate recorded instrument, but any such action shall be commenced prior to the issuance of the Building Permit. *(am. 05/01/07)*

- d. **Suspension.** The Board of County Commissioners may suspend or withdraw any approval of a Preliminary Plan or Final Plat for Subdivision, or may require corrective measures to be taken following a determination that the information provided by the subdivider upon which the approval is based is false or inaccurate. A written notice from the Board of County Commissioners or its designated representative shall be served upon the subdivider, setting out a clear and concise statement of the alleged facts and directing the subdivider to appear at a specified regular meeting of the Board of County Commissioners not less than ten (10) calendar days nor more than thirty (30) calendar days after the date of service of notice. The Board of County Commissioners shall determine at that meeting the nature and extent of alleged false or inaccurate information, shall consider any new significant information that has been brought to their attention, and shall, for good cause shown, suspend or withdraw any approval or require certain corrective measures to be taken. This Section shall not apply to any Final Plat for Subdivision where lots have been sold.

SECTION 7-110. REVOCATION OR SUSPENSION OF SPECIAL USE PERMIT, VARIANCE PERMIT, PUD OR SUBDIVISION

Revocation or suspension of a Special Use Permit, Variance Permit, Preliminary Plan for PUD, or Subdivision (Preliminary Plan or Final Plat for Subdivision) issued pursuant to these Land Use Regulations shall be made under the procedures and standards of this Section, upon a finding that the Special Use Permit, Variance Permit, Preliminary Plan for PUD, or Subdivision (Preliminary Plan or Final Plat for Subdivision) was issued on the basis of erroneous or misleading information or representation, the development violates the terms or conditions of any permit issued pursuant to these Land Use Regulations, the terms or conditions of the Special Use Permit, Variance Permit, PUD, or Subdivision, or these Land Use Regulations.

A. Procedure.

1. **Initiation by County.** If the County determines there are reasonable grounds for the revocation or suspension of a Special Use Permit, Variance Permit, Preliminary Plan for PUD, or Subdivision (Preliminary Plan or Final Plat for Subdivision) under the standards of Section 7-110.B., Standards, the Code Enforcement Officer shall set a hearing before the Board of County Commissioners.
2. **Notification.** The Code Enforcement Officer shall give the permittee notification by mail a minimum of twenty (20) calendar days prior to the hearing. The notification shall also state the grounds for the revocation or suspension of the Special Use Permit, Variance Permit, Preliminary Plan for PUD, or Subdivision (Preliminary Plan or Final Plat for Subdivision).

3. **Revocation or Suspension Hearing.** The Board of County Commissioners shall conduct a hearing on the proposed revocation or suspension.
 4. **Decision of Board of County Commissioners.** Within thirty (30) calendar days after the close of the hearing, the Board of County Commissioners shall render a decision on the revocation or suspension of the Special Use Permit, Variance Permit, Preliminary Plan for PUD, or Subdivision (Preliminary Plan or Final Plat for Subdivision) based on Section 7-110.B., Standards.
 5. **Record.** Hearings shall be recorded pursuant to Section 5-210.F.5.f., Record.
- B. Standards.** A Special Use Permit, Variance Permit, Preliminary Plan for PUD, or Subdivision (Preliminary Plan or Final Plat for Subdivision) shall be revoked or suspended if any one (1) of the following findings is made by the Board of County Commissioners.
1. **Based on misleading information or misrepresentation.** The permit was issued on the basis of erroneous or misleading information or misrepresentation; or
 2. **Violation of conditions of permit.** The development violates the terms or conditions of the Special Use Permit, Variance Permit, Preliminary Plan for PUD, or Subdivision (Preliminary Plan or Final Plat for Subdivision) issued pursuant to these Land Use Regulations.
- C. Notification.** Notification of the Board of County Commissioners' decision shall be provided by the Code Enforcement Officer to the permittee by mail within thirty (30) calendar days of the decision.
- D. Cumulative remedy.** The Board of County Commissioners' right to revoke or suspend a Special Use Permit, Variance Permit, Preliminary Plan for PUD, or Subdivision (Preliminary Plan or Final Plat for Subdivision) as provided in this Section, shall be cumulative to any other remedy provided by law.

SECTION 7-120. ABATEMENT OF VIOLATIONS

- A. General.** Violations of these Land Use Regulations may be abated under the procedures and standards of this Section, at the election of the County Attorney; however, this procedure shall not be the sole remedy available, and the County may enforce these Land Use Regulations in any manner provided by law.

B. Procedure.

- 1. Notification of Violation.** If after appraisal by the Code Enforcement Officer, the County determines that any land use within unincorporated Eagle County is in violation of the provisions of these Land Use Regulations, the County may mail a Notice to Abate to the landowner, stating the provisions of these Land Use Regulations being violated, and setting forth a reasonable period of time for the landowner to abate and correct the violation.
 - 2. Hearing to Correct Violation.** In the event the landowner fails to comply with the Notice to Abate, a Hearing Officer shall conduct a Hearing to Abate to ascertain whether abatement should be required under the procedures and standards of this Section.
- a. Notice of Hearing.** The County shall provide notice of the Hearing to Abate to the landowner and complainant by certified mail, return receipt requested, a minimum of fourteen (14) calendar days prior to the date established for the hearing. Notice shall be substantially in the format set forth below

NOTICE OF HEARING ON ABATEMENT OF VIOLATION OF LAND

This is a notice of hearing before a Hearing Officer of Eagle County, Colorado, to ascertain whether certain land or structures situated in unincorporated Eagle County, Colorado, known and designated as (street address) _____, in said County, and more particularly described as (legal description) _____ with Tax Parcel No _____ constitutes a violation of the County's Land Development Regulations and is subject to abatement pursuant to Section 7-120 thereof , and Section 30-28-124, Colorado Statutes. If the violation is not promptly abated by the landowner, such violation may be abated by County authorities, in which case the cost of any eviction or relocation of an illegal use, rehabilitation, repair, or demolition of an illegal structure will be assessed upon such land, and such costs, together with interest thereon, will constitute a lien upon such land until paid. In addition, the landowner may be cited for violation of the provisions of these Land Development Regulations and subject to a fine.

Said alleged violation is of Section ____ of these Land Development Regulations, and consists of the following:

The method(s) of abatement are:

All persons having an interest in said matters may attend the hearing and their testimony and evidence will be heard and given due consideration.

Dated this ____ day of _____, 20__.

Time and Date of Hearing:

Location of Hearing:

b. Recommended by Hearing Officer.

- (1) **General.** At the time stated in the Notice of the Hearing to Abate, the Hearing Officer shall conduct a hearing pursuant to the requirements of this Section, and shall hear and consider all relevant evidence, objections or protests, and shall hear testimony under oath of the alleged violator and all other persons having an interest in the hearing.
- (2) **Continuance.** The Hearing Officer may continue the hearing from time to time for good cause.
- (3) **Recommended Order.** If, after the conclusion of the hearing, the Hearing Officer finds that a violation of these Land Use Regulations does exist and there is sufficient cause to evict or relocate an illegal use or rehabilitate, demolish, remove or repair an illegal structure, the Hearing Officer shall prepare a recommended Order to Abate outlining findings and specifying the nature of the violation, the method of abatement and the time within which the work shall be commenced and completed. The recommended Order to Abate shall then be forwarded to the Board of County Commissioners for final action at a hearing.
- (4) **Notification of Recommended Order.** The Hearing Officer shall provide the landowner a copy of the recommended Order to Abate by mail, on the day the recommended Order is forwarded to the Board of County Commissioners for a final decision.

b. Decision by Board of County Commissioners.

- (1) **Scheduling Hearing.** The Board of County Commissioners shall schedule a hearing on the recommended Order to Abate within thirty (30) calendar days from the date the recommended Order is forwarded to the Board of County Commissioners by the Hearing Officer.
- (2) **Notice of Hearing.** The County shall provide the landowner notice of the hearing by certified mail, return receipt requested, a minimum of fourteen (14) calendar days prior to the date of the hearing.
- (3) **Continuances.** Continuances of the hearing may be granted by the Board of County Commissioners on request of the landowner for good cause shown.
- (4) **Decision by Board of County Commissioners.** At the hearing, the Board of County Commissioners shall provide the landowner or the landowner's representative and the County Attorney an opportunity to make statements about the record established in the hearing held by the Hearing Officer and the recommended Order to Abate. The Board of

County Commissioners shall then review the record and recommended Order to Abate. The recommended Order to Abate, or a modified version thereof, shall be approved if there is competent substantial evidence in the record that a violation of these Land Use Regulations does exist and there is sufficient cause to evict or relocate an illegal use or rehabilitate, demolish, remove or repair an illegal structure.

- (5) **Notice of Decision.** The County shall provide a copy of the decision of the Board of County Commissioners to the landowner by mail, return receipt requested.

3. **Record.** Hearings shall be recorded pursuant to Section 5-120.f.5.f., Record.

- C. **Effect of Order to Abate.** If an Order to Abate is issued it shall mean that the land or structure is in violation of these Land Use Regulations, and the illegal activity shall be discontinued and rehabilitated, repaired, removed, or demolished in the manner and means specifically set forth in the Order to Abate.
- D. **Abatement by County.** If the violation is not abated pursuant to the Order to Abate within the prescribed abatement period, the County Attorney shall cause the violation to be abated by County employees or by private contract, or by any other means provided by Colorado law. The County Attorney is authorized to enter upon land for such purposes. The costs, including incidental expenses of abating the violation, shall be the responsibility of the landowner. The term "incidental expenses" shall include, but shall not be limited to, personnel costs, both direct and indirect; costs incurred in documenting the violation; the actual expenses and costs of the County in the preparation of notices, specifications and contracts, and in inspecting the work; and the costs of printing and mailing required hereunder. If the landowner fails to pay, the costs shall become a lien against the land.
- E. **Cumulative Remedy.** The County's right to abate a violation of these Land Use Regulations, as provided in this Section, shall be cumulative to any other remedy provided by law.

SECTION 7-130. NOTIFICATION TO CORRECT VIOLATION

- A. **General.** If the Code Enforcement Officer has personal knowledge of any violation of these Land Use Regulations, the Code Enforcement Officer shall give written notice to the alleged violator by certified mail, return receipt requested. The notification shall state the provisions of these Land Use Regulations being violated, and state that the violator shall correct the violation within ten (10) calendar days of receipt of the notification. (*am. 05/01/07*)
- B. **Failure to Comply.** If the violator fails to correct the violation within ten (10) calendars days, the Code Enforcement Officer may, through the County Attorney, request the Sheriff to issue a summons and complaint against the violator pursuant to Colorado law stating the nature of the violation with sufficient particularity to give notice of the charge to the violator. It shall be the responsibility of the County Attorney to enforce this provision. (*am. 05/01/07*)

SECTION 7-140. OTHER REMEDIES.

- A. Civil Remedies.** If any person, firm or corporation violates these Land Use Regulations, the Board of County Commissioners through the County Attorney may seek either or both of the following civil remedies. (*am. 05/01/07*)
- 1. Injunction.** The Board of County Commissioners, through the County Attorney, in addition to other remedies provided by law, may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful use, construction, alteration or development. (*orig. 05/01/07*)
 - 2. Civil Penalty.** In addition to the criminal penalties described below any person, firm or corporation violating these Land Use Regulations may also be subject to imposition, by order of the County Court, of a civil penalty in an amount of not less than five hundred dollars (\$500) or more than one thousand dollars (\$1000). Each day after the issuance of the order of the County Court during which such unlawful activity continues shall be deemed a separate violations and shall be the subject of a continuing penalty in an amount not to exceed one hundred dollars (\$100) for each such day. Until paid, any civil penalty ordered by the County Court shall, as of recording, be a lien against the property on which the violation has been found to exist. In case the assessment is not paid within thirty days, it may be certified by the County Attorney to the County Treasurer, who shall collect the assessment, together with a ten percent penalty for the cost of collection, in the same manner as other taxes are collected. Any lien placed against a property pursuant to this section shall be recorded with the Eagle County Clerk and Recorder. (*orig. 05/01/07*)
- C. Criminal Remedies.** Any person violating any provisions of these Land Use Regulations shall be subject to all criminal penalties authorized by the State of Colorado for such violation, including upon conviction, a fine and imprisonment, or both, and payment of all costs and expenses involved in prosecuting the offense.