

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE II	
VIOLATIONS AND ENFORCEMENT.....	2
DIVISION 1	VIOLATIONS..... 2
Section 2-100	Violations..... 2
DIVISION 2	ENFORCEMENT..... 5
Section 2-200	Remedies and Penalties..... 5
Section 2-201	Enforcement Procedures..... 6
Section 2-202	Inspections..... 6
Section 2-203	False Information Unlawful and Suspension of Approval..... 7
Section 2-204	Non-liability of County..... 7

ARTICLE II

VIOLATIONS AND ENFORCEMENT

DIVISION 1 VIOLATIONS

Section 2-100 Violations.

- A. Compliance with LUR Required. It is unlawful to use real property or improvements thereon; to develop real property; to erect, construct, reconstruct, remodel, restore or improve a building or structure; to excavate land; or to alter or change the use of any real property or improvements thereon in any way not in accordance with these Land Use Regulations or any amendment thereto enacted or adopted by the Board of County Commissioners or without first obtaining all land use approvals and permits required by these Land Use Regulations or any amendment thereto enacted or adopted by the Board of County Commissioners.
- B. Building Permit Required. It is unlawful to erect a structure without first obtaining the required County permits.

Exemptions: A building permit is not required for the following:

1. Buildings or structures used for the sole purpose of providing shelter for agricultural implements, farm products, livestock, or poultry (for example, barns and equipment sheds) located within zone districts that permit ranching, farming, or the keeping of livestock and poultry. Such buildings and structures must conform to all other requirements of the zone district in which the property is located, such as but not limited to setbacks and building heights. Owners are encouraged to contact the Park County Planning Department for information regarding other applicable requirements for buildings and structures. Buildings that are used exclusively for non-agricultural uses are not exempt. (See definition of Agriculture; Article IV)
 2. Soil preparation, irrigation, planting, harvesting, or grazing associated with agricultural use of property located within an agricultural zone district.
- C. Cease and Desist Order. The Planning Director is authorized to issue administrative orders to the owner and/or occupant of any property directing the owner, occupant, and any other person to cease and desist from violation of these Land Use Regulations. Any cease and desist order shall be made in writing and shall cite the specific provision of these Land Use Regulations and the action, activity, construction, or use found to violate such provision. Such order shall state the name and telephone number of the person issuing the order.
- D. Violation of Cease and Desist Order. It is unlawful to fail to fully conform and comply with any cease and desist or stop work order issued by Park County in accordance with these Land Use Regulations. Any such order shall command that no work shall proceed on any building or other structure or tract of land covered by such order, except work necessary to correct such violation or to ensure the safety or security to adjacent, surrounding, or neighboring properties.
- E. Compliance with Terms and Conditions. It is unlawful to use real property or the improvements thereon to develop real property; to erect, construct, or reconstruct a building structure; to excavate land; or to alter or change the use of any real property or improvements thereon in a way that is inconsistent with the terms and conditions of any land use approval or building permit granted under these Land Use Regulations.
- F. Unlawful Divisions of Property.

1. No Divisions Below Minimum Lot Size: Except as may be expressly permitted by state law (see (3) below), it shall be unlawful for any person to sell, convey, transfer, dispose of, or otherwise divide any property subject to these Land Use Regulations where such sale, conveyance, transfer, disposition, or other division would result in, create, or leave a lot or parcel of land that fails to meet the minimum lot area established for such property by the applicable zone district. This Section shall not apply to the sale, conveyance, transfer, disposition, division, or dedication of property to the County, provided that the County accept such sale or conveyance, for the purpose of providing land to the County or another governmental agency for a public use such as, but not limited to, park, open space, trail, right-of-way, utility access, and drainage management.
2. No Transfer Without Approved Subdivision: Except as may be expressly permitted by state law (see (3) below), it shall be unlawful for any person to sell, convey, plat, transfer, dispose of, or otherwise divide any interest in property subject to these Land Use Regulations except where such sale, conveyance, plat, transfer, disposition, or division is approved by Park County in accordance with these Land Use Regulations and, in particular, the Subdivision Regulations of Article VI.
3. State Law Exemptions. The following exemptions from the definition of subdivision (for which the County does not have authority to require County approval) are provided by C.R.S. § 30-28-101(10):
 - a. Any division of land which creates parcels of land each of which comprises thirty-five or more acres of land and none of which is intended for use by multiple owners.
 - b. Unless the method of disposition is adopted for the purpose of evading state or county subdivision requirements, any division of land:
 - i Which creates parcels of land, such that the land area of each of the parcels, when divided by the number of interests in any such parcel, results in thirty-five or more acres per interest;
 - ii Which could be created by any court in this state pursuant to the law of eminent domain, or by operation of law, or by order of any court in this state if the board of county commissioners of the county in which the property is situated is given timely notice of any such pending action by the court and given opportunity to join as a party in interest in such proceeding for the purpose of raising the issue of evasion of part 1, article 28, title 30, C.R.S. prior to entry of the court order; and, if the board does not file an appropriate pleading within twenty days after receipt of such notice by the court, then such action may proceed before the court;
 - iii Which is created by a lien, mortgage, deed of trust, or any other security instrument;
 - iv Which is created by a security or unit of interest in any investment trust regulated under the laws of this state or any other interest in an investment entity;
 - v Which creates cemetery lots;
 - vi Which creates an interest in oil, gas, minerals, or water which is severed from the surface ownership of real property;

- vii Which is created by the acquisition of an interest in land in the name of a husband and wife or other persons in joint tenancy or as tenants in common, and any such interest shall be deemed for purposes of C.R.S. § 30-28-101(10) as only one interest;
- viii Which is created by the combination of contiguous parcels of land into one larger parcel. If the resulting parcel is less than thirty-five acres in land area, only one interest in said land shall be allowed. If the resulting parcel is greater than thirty-five acres in land area, such land area, divided by the number of interests in the resulting parcel, must result in thirty-five or more acres per interest. Easements and rights-of-way shall not be considered interests for purposes of C.R.S. § 30-28-101(10)(VIII);
- ix Which is created by a contract concerning the sale of land which is contingent upon the purchaser's obtaining approval to subdivide, pursuant to this article and any applicable county regulations, the land which he is to acquire pursuant to the contract; or
- x Which creates a cluster development pursuant to part 4, article 28, title 30, C.R.S. if such type of development is implemented by regulations of the County.

DIVISION 2 ENFORCEMENT

Section 2-200 Remedies and Penalties.

- A. Enforcement Philosophy. It is the intent of the County to promote the health, safety, welfare, and prosperity of the present and future residents and property owners of the County.
- B. General Criminal Penalty for Violation. Pursuant to C.R.S. § 30-28-124, any person, firm, or corporation violating any provision of these Land Use Regulations or any provision of C.R.S. §§ 30-28-101 through 30-28-138, is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars (\$100.00), or by imprisonment in the county jail for not more than ten days, or by both such fine and imprisonment. Each day during which such illegal use of any building, structure, or land continues shall be deemed a separate offense.
- C. General Civil Penalty for Violation. Pursuant to C.R.S. § 30-28-124.5, any person, firm, or corporation violating any provision of these Land Use Regulations or any provision of C.R.S. §§ 30-28-101 through 30-28-138, may be found civilly liable for such violation and, upon such finding, shall be subject to the imposition, by order of the county court, of a civil penalty in an amount of not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1000.00). Each day after the issuance of the order of the county court during which such unlawful activity continues shall be deemed a separate violation and shall be the subject of a continuing penalty in an amount not to exceed one hundred dollars (\$100.00) for each such day.
- D. Additional Remedies Authorized. All provisions of these Land Use Regulations may be enforced by any legal or equitable means recognized by the Colorado Revised Statutes and Colorado Court Rules, as amended. In addition to any other remedies that may be recognized in law or equity, for any violation of these Land Use Regulations Park County may use any of the following methods of enforcement either individually or in combination:
1. Withhold construction or building permit(s) for all or any improvement within the development or the property;
 2. Withhold certificate(s) of occupancy for any structure within the development or the property;
 3. To the greatest extent permitted by law, revoke or suspend any license, permit, or certificate issued to the development, property, or violator;
 4. Inspect and order the removal or abatement of violations;
 5. Issue a cease and desist or stop work order mandating the temporary suspension of any development activity within or associated with the violation or the property in which the violation is located;
 6. Assess the costs and expenses (including but not limited to costs and expenses for administrative actions, publication, attorneys fees, and court costs) incurred by the County in the enforcement of these Land Use Regulations and impose a lien for such costs and expenses against all or any portion of the property subject or related to the violation as may be permitted by law;
 7. Enforce in a court of competent jurisdiction any contractual agreement executed by the violator or the owner or applicant associated with the property; and/or

8. Demand payment, receipt, and County use of funds held by any person or financial institution that were deposited to secure the performance of the obligation or duty the County seeks to enforce.

Section 2-201 Enforcement Procedures.

- A. Notice and Opportunity to Cure Required. Prior to commencement of criminal or civil enforcement proceedings as authorized by C.R.S. §§ 30-28-124 or 30-28-124.5, the County shall first pursue the following process in an attempt to remedy the violation:
 1. Notification of Violation. The Planning Director or a County designated agent shall send to the occupant (if the property is occupied) and/or to the owner of record a Notice of Violation of the Land Use Regulations by United States Mail. The County may, but shall not be required to, provide an additional courtesy posting of the notice at the site of the violation.
 2. Form of Notice. The mailed notice shall contain the following information at a minimum:
 - a. A list or description of the violation(s) with a citation or reference to the section of the Land Use Regulations violated;
 - b. An order or demand that the notice recipient cease and correct all violation(s) within thirty (30), twenty (20) or ten (10) days from the date of the notice; and
 - c. The County address and business telephone number of the County official issuing the Notice of Violation.
 - d. If the Notice of Violation is in the form of a complaint received from a person not employed by the County or a governmental entity with relevant interests; then the complaint must be in writing, must be signed by the complaining party, who is either a Park County resident or property owner, and must contain the residential address of the complaining party. A copy of the complaint must be attached to the Notice of Violation.
- B. Response to Notice. Any person who receives Notice of Violation of the Land Use Regulation shall, prior to or within the time period for compliance stated in the Notice of Violation:
 1. Restore the property to compliance with the Land Use Regulations; or
 2. Deliver to the address of the County official issuing the Notice of Violation a written request for an extension of time to achieve compliance with the Land Use Regulations. The Planning Director or designee shall mail a written response to any timely request for extension and, where the Planning Director deems an extension appropriate, may grant an extension not to exceed a maximum of sixty (60) days. Failure of the Planning Director to respond to a timely request within seven (7) business days of the date of the response shall constitute approval of the requested extension or a thirty (30) day extension, whichever is shorter in duration.

Section 2-202 Inspections.

- A. Entry to Inspect. The Planning Director, Chief Building Official or other authorized representative ("the enforcing official") is authorized to enter or inspect any building, structure, premises or real property to ensure compliance with these Land Use Regulations. These inspections will be carried out during normal business hours except in emergency situations described in Subsection

C below. Entry onto private property for inspection will be made only after contact with the owner or occupant of the premises, whose permission for the inspection must be obtained.

- B. Court Order. If the owner or occupant of the premises cannot be located or permission to enter cannot be obtained, the enforcing official may seek an administrative warrant or court order allowing entry by submitting a sworn affidavit to an appropriate court detailing facts to support a reasonable belief that a violation is likely to exist and that further investigation of the premises is warranted. Any subsequent entry and inspection must be conducted in accordance with the administrative warrant or order issued by the court. Inspections may be conducted from public property or rights-of-way, or from adjacent private property with the permission of the owner of the private property from which the inspection is being conducted.
- C. Emergency Entry. Notwithstanding the provisions of subsection (A) above, permission to enter or a court order is not required in emergency situations in which the enforcing official has reason to believe public health or safety is in imminent danger and could be jeopardized by any delay in obtaining permission to enter or a court order. An emergency does not mean expedience, convenience or best interest.

Section 2-203 False Information Unlawful and Suspension of Approval.

- A. False Information Unlawful. It shall be unlawful for any person to make, offer, represent, provide, or state in writing or verbally to Park County, its boards, commissions, and employees any false, incorrect, or inaccurate information as part of any application for land use approval when such person knows or reasonably should have known of the falseness, incorrectness, or inaccuracy of the information. Without limiting the scope of applicability of this subsection (A), the provisions of this subsection (A) apply to statements, representations, and information made or offered to the Board of County Commissioners, Planning Commission, and Board of Adjustment by members of the public during hearings and meetings. The Board of County Commissioners may suspend any approval, when such approval was based on false, incorrect or inaccurate information in accordance with the subsequent paragraph.
- B. Suspension of Approval. In addition to any other remedy available to the County, the Board of County Commissioners may revoke or suspend approval or impose a subsequent condition of approval necessary to bring the development into accordance with these Land Use Regulations following a determination by the Board of County Commissioners that the information provided by the applicant or the applicant's agents or representatives upon which such approval was based was substantially false or inaccurate and that correct or accurate information would have reasonably resulted in a basis for denial of the application. Any decision to revoke or suspend approval or impose a subsequent condition shall be made only at a regular or special meeting of the Board of County Commissioners. Prior to the meeting, a written notice from the County shall be mailed via regular U.S. Mail (or a comparable service) or hand-delivered to the applicant, setting forth a clear and concise statement of alleged facts and directing the applicant to appear at a specific date and time at a meeting to be held not less than five (5) days, nor more than fifteen (15) days from the date of mailing or hand delivery of notice to the applicant. The Board of County Commissioners shall determine at the meeting the nature and extent of any alleged false or inaccurate information and shall have the authority, upon good cause being shown, to revoke or suspend approval or impose a subsequent condition of approval necessary to bring the development into conformance with these Land Use Regulations and to correct the false or inaccurate information. Any suspension of approval shall be for a defined period and the County shall not unreasonably delay a decision. During any period of suspension, the County may pursue other remedies provided by these Land Use Regulations or other applicable law.

Section 2-204 Non-Liability of County.

- A. These Land Use Regulations shall not be construed to hold Park County or any of its employees or officials, acting within the scope of their employment in any manner, responsible or liable for

- B. The County and its employees are also not liable for damages resulting from any failure to inspect or enforce, or resulting from the issuance or denial of any building permit or the institution or failure to institute any court action as herein authorized or required. In enacting these Land Use Regulations, the Board of County Commissioners intends to preserve all rights of the County, its agencies and departments, its elected and appointed officials and employees to immunity from liability as described in the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101 through 24-10-119, as amended.