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CHAPTER 10: VIOLATIONS, ENFORCEMENTS AND PENALTIES

10-10: GENERAL

This Land Use Code shall be enforced in accordance with the provisions of Colorado law and as provided in this part.

10-20: VIOLATIONS

10-20-10: LAND USE APPROVALS

It shall be unlawful to use real property or the improvements on real property; to undertake the development of 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 on real property, within the unincorporated territory of Pitkin County in a way inconsistent with or not in accordance with this Land Use Code and without first obtaining all land use approvals required by this Land Use Code.

10-20-20: BUILDING PERMITS

It shall be unlawful to use real property or the improvements on real property; to undertake the development of 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 on real property within the unincorporated territory of Pitkin County in a way inconsistent with or not in accordance with the adopted building code and without first obtaining a building permit in accordance with the provisions of this Land Use Code and the adopted building code as adopted by the Board.

10-20-30: TERMS AND CONDITIONS

It shall be unlawful to use real property or the improvements on real property; to undertake the development of 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 on real property, within the unincorporated territory of Pitkin County in a way inconsistent with or not in accordance with the terms and conditions of any land use approval or building permit granted by the Board, or its authorized agencies.

10-20-40: SUBDIVISIONS

(a) Any subdivider or agent of a subdivider who transfers or sells before a Final Plat for such subdivided land has been approved by the Board and recorded or filed in the Office of the County Clerk and Recorder is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than five hundred (500) dollars for each parcel or interest in subdivided land that is sold or offered for sale. All fines collected under this paragraph shall be credited to the general fund of the County.

(b) The Board has the power to bring an action to enjoin any subdivider from selling land before a Final Plat for such subdivided land has been approved by the Board.

(c) In the case of condominium subdivisions, units may be offered for transfer or sale after the condominium plat has been recorded and all other applicable requirements of the condominium or other applicable laws have been met.

(d) The Board or any purchaser of any lot(s) or parcel(s) of land subject to a plat restriction that is the security portion of an Improvement Agreement shall have the authority to bring an action in any

district court to compel the enforcement of any Improvements Agreement on the sale, conveyance or transfer of title of any lot(s) or parcel(s) of land or of any other provision of such agreement. Such authority shall include the right to compel rescission of any sale, conveyance, or transfer of title of any lot, lots, tract or tracts 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 a building permit.

10-20-50: CONTINUING VIOLATIONS

Each day during which any violation of this Land Use Code continues shall be deemed a separate offense.

10-30: ENFORCEMENT PROCEDURES

The Chief Building Official, the Community Development Director and the Pitkin County Code Enforcement Officer are hereby delegated with the power to enforce this Land Use Code and the adopted building code, including without limitation any condition imposed on an approval under either code, as provided in this chapter, and may use any remedies established in this Chapter 10 or other applicable law.

10-30-10: NOTICE OF VIOLATION

Whenever the Chief Building Official, the Community Development Director or the Pitkin County Code Enforcement Officer has personal knowledge of any violation of this Land Use Code, such person shall give written notice to the violator to correct or cease and desist from continuing such violation. An immediate order to cease the violation may be issued, but in no case shall a correction period of longer than ten (10) days be granted unless the Community Development Director approves a longer time period.

10-30-20: REQUIRED REMOVAL OF IMPROVEMENTS

The Chief Building Official and the Community Development Director are hereby authorized to require the immediate removal of any and all fixtures, utilities, appliances, structures, or other improvement designed to make an area usable or habitable (whether or not presently so used) or to require the removal or restoration of any other development when such use or development is not permitted by applicable provisions of this Land Use Code or when such use or development violates the terms or conditions of an existing approval.

10-30-30: DEVELOPMENT WITHOUT A PERMIT

(a) Whenever any development for which a permit is required by this Land Use Code, has been commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for such development.

(b) An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be in a minimum amount equal to the amount of the permit fee required by this Land Use Code. The total fee to be assessed shall be based upon the hourly rate authorized by ordinance to be collected by the Community Development for the time of its staff on an hourly basis. The payment of such investigation fees shall not exempt any person from compliance with all other provisions of this Land Use Code nor from any penalty or enforcement procedure authorized by law.

10-30-40: REVOKING AND WITHHOLDING BUILDING PERMITS

(a) In the event that either the Chief Building Official or the Community Development Director has personal knowledge of any violation of this Land Use Code or the adopted building code, either shall revoke any building permit that has been issued for improvements on the property where the violation is known to exist.

(b) In the event that the Chief Building Official or the Community Development Director has knowledge of any violation of this Land Use Code or the adopted building code, no land use approvals or building or other development permits shall be issued with respect to the property where the violation is believed to exist, during the period of such violation. Any existing land use approval for the property where the violation exists may be suspended or revoked where the violation consists of development or use of the property not in accordance with the terms and conditions of approval.

(c) In the event that the Chief Building Official or the Community Development Director has personal knowledge of any violation of this Land Use Code or the adopted building code, no land use approval or building permits shall be issued for any other property under the ownership or control of the same person, firm, corporation, or other entity responsible for the violation on the property where such violation is believed to exist, during the period of such violation.

(d) Except as otherwise stated above, the revoking and withholding of building or other development permits and land use approvals shall be an administrative act of the Director of Community Development.

10-30-50: WITHDRAWAL OF SPECIAL REVIEW PERMIT

If an activity or development permitted by a special use permit is not operated in strict compliance with the terms and conditions attached to that permit, the special review permit may be withdrawn through those procedures in Sec. 2-40-20(c)(5).

10-30-60: FORFEITURE OF VESTED PROPERTY RIGHT

(a) If a Site Specific Development Plan is approved with conditions, the failure to fully abide by the terms of any conditions of approval may result in a forfeiture of vested property rights, and may result in revocation or suspension of the approval.

(b) Forfeiture of a vested property right and revocation or suspension of a development approval shall be by resolution of the Board after public hearing, in accordance with this section. Notice of the hearing shall be published and mailed to the owner of the applicable real property no later than ten (10) days prior to the hearing.

10-30-70: CRIMINAL ENFORCEMENT

(a) Should the violator fail to correct the violation within the required time period, the County Chief Building Official or the Community Development Director, as appropriate, may request that the Pitkin County Sheriff issue a summons and complaint to the violator, stating the nature of the violation with sufficient particularity to give notice of said charge to the violator. The summons and complaint shall require that the violator appear in county court at a specific time and place stated therein to answer and defend the charge. One copy of said summons and complaint shall be served upon the violator by the Sheriff in the manner provided by law for the service of a criminal summons. One copy shall be retained by the Sheriff and the Community Development Director or the Chief Building Official, and one copy shall be transmitted by the Sheriff to the clerk of the combined courts.

(b) It is the responsibility of the County Attorney, at the request of the Board of County Commissioners, to bring any criminal or civil enforcement action.

10-30-80: CIVIL ENFORCEMENT

Notwithstanding the listing of enforcement powers in this chapter, and in addition to those powers, in case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, or used, or any land is or is proposed to be used, in violation of this Land Use Code or the adopted building code, or any amendment to such documents enacted or adopted by the Board of County Commissioners, 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 erection, construction, reconstruction, alteration, or use.

10-40: PENALTIES

Any person convicted of violating any provision of this Land Use Code is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one hundred dollars (\$100), or by imprisonment in the County jail for not more than ten (10) days, or by both such fine and imprisonment. Each day during which such illegal erection, construction, reconstruction, alteration, maintenance, use or other violation continues shall be deemed a separate offense. The criminal penalties and procedures authorized by this subsection are intended to be identical to those authorized by § 30-28-124 C.R.S., as that statute may be amended from time to time.

Pursuant to § 30-28-124.5, C.R.S., as amended, any person violating any provision of this Land Use Code is subject to the imposition, by order of the county court, of civil penalties in an amount of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000). Each day after the issuance of a court order during which the illegal activity continues shall be deemed a separate violation and shall be subject to a continuing penalty in an amount not to exceed one hundred dollars (\$100) for each such day. The criminal penalties and procedures authorized by this subsection are intended to be identical to those authorized by § 30-28-124.5 C.R.S., as that statute may be amended from time to time. Until paid, any civil penalty ordered by the county court and assessed under this subsection 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 (30) days, it may be certified by the County Attorney to the County Treasurer, who shall collect the assessment, together with a ten (10) percent penalty for the cost of collection, in the same manner as other taxes are collected. The laws of the State of Colorado for assessment and collection of general taxes, including the laws for the sale and redemption of property for taxes, shall apply to the collection of assessments pursuant to this subsection. Any lien placed against the property pursuant to this subsection shall be recorded with the Clerk and Recorder of the County. Such civil penalties may be imposed in addition to any criminal penalties authorized by this section and § 30-28-124, C.R.S.

10-50: INSPECTION

The Chief Building Official, County Code Enforcement Officer, and the Community Development Director are hereby authorized to inspect any lands, buildings, or improvements to determine if there is compliance with this Land Use Code or the adopted building code. Any official performing such an inspection shall abide by the laws of search and seizure as set forth by Federal and State statutory and constitutional law.

10-60: JUDICIAL REVIEW BY THE BOARD OF COUNTY COMMISSIONERS

There is hereby granted to the Board of County Commissioners authority to initiate and pursue judicial review of any final action of any administrative official, the Board of Adjustment and Planning and Zoning Commission taken pursuant to the provisions of this Land Use Code.

10-70: MAINTENANCE OF COMMON OPEN SPACE

In the event that the homeowners' or other association required pursuant to this Land Use Code to perpetually maintain open space for the benefit of residents of a PUD shall fail to maintain the same in accordance with the approved Plan, the Board of County Commissioners, on giving notice to the association shall undertake such maintenance, all as required by this Land Use Code. The cost of such maintenance by the Board of County Commissioners shall be paid by the owners of properties within the PUD that have a right of enjoyment of the common open space, and any unpaid assessments shall become a tax lien on said properties. The Board shall file a notice of such lien in the office of the Pitkin County Clerk and Recorder upon the properties affected by such lien within the PUD, and shall certify such unpaid assessments to the Pitkin County Assessor for equitable allocation among property owners within the planned development and Pitkin County Treasurer for collection, enforcement, and remittance under and as general property taxes.

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