

Article 17



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17-100 Enforcement Remedies Generally

- A. All provisions of the Code have been adopted in accordance with the procedures required by C.R.S. 30-28-112 and -116, as amended, and may be enforced as a violation of the County's zoning regulations (see Section 17-300, below, and C.R.S. 30-28-124, and C.R.S. 30-28-124.5), with the following additions or exceptions:
1. Article 3 (Processes), Article 7 (Development Standards), and Article 16 (Text Amendments) shall be enforced in accordance with the remedies applicable to the type of process or application at issue (zoning, application for approval under the Subdivision Regulations, planned unit development, etc.).
 2. Article 5 (Subdivision Regulations) and Article 9 (Exemptions) shall be enforced in accordance with the remedies specified for county subdivision regulations (see Section 17-400, below, and C.R.S. 30-28-110(3)-(4) and 30-28-137, as amended).
 3. Article 6 (Planned Unit Development) shall be enforced in accordance with Article 67 of Title 24, C.R.S., as amended (Planned Unit Development Act of 1972), in addition to and applicable zoning or Subdivision Regulations remedies.
 4. Article 8 (Location and Extent Review) and Article 10 (Vacation of Public Roads) shall be enforced through any appropriate legal or equitable remedies allowed under the Colorado State Statutes or Colorado Court Rules, as amended. (See, e.g., 30-28-110(1), and Part 3 of Article 2 of Title 43, C.R.S., as amended, respectively).
 5. Article 11 (Special District Review) shall be enforced in accordance with Part 2 of Article 1 of Title 32, C.R.S., as amended (Special District Control Act).
 6. Article 14 (Rubbish) shall be enforced in accordance with the provisions specified in that Article.
- B. In addition to the remedies specified above, all provisions of the Code may be enforced by any legal or equitable means recognized by the Colorado State Statutes and Colorado Court Rules, as amended.

17-200 Non-liability of County

- A. This Code shall not be construed to hold Boulder County or any of its employees or officials acting within the scope of their employment in any manner responsible or liable for any damages to persons or property resulting from any inspection or enforcement as herein authorized or resulting from any failure to so inspect or enforce, or resulting from the issuance or denial of any building permit or the institution of or failure to institute any court action as herein required or authorized. In enacting this Code the Commissioners intend to preserve all rights of the County, its agencies and departments, and its elected and appointed officials and employees, to immunity from liability as set forth in the Colorado Governmental Immunity Act, C.R.S. 24-10,101, et seq.

17-300 Zoning Regulation Enforcement

A. Building Permit Requirements

1. No person shall erect, construct, reconstruct, alter, or change the use of any building or other structure within the unincorporated territory covered by this code without the property owner or his authorized representative first obtaining a building permit from the Building Official or his authorized representative. A building permit shall not be required for the following:
 - a. One-story detached accessory structures used as a storage shed, playhouse, greenhouse, chicken coop, agricultural loafing shed, or similar uses, provided:
 - (i) the floor area of any structure does not exceed 120 square feet except agricultural loafing sheds which may not exceed 200 square feet,
 - (ii) the structure height does not exceed 12 feet,
 - (iii) the structure does not have any utilities, and
 - (iv) the structure does not violate the conditions of any existing land use approval or conservation easement.
 - (v) The number of allowed detached accessory structures which may be constructed without a building permit shall be determined by the size of the subject parcel:
 - (A) One detached accessory structure may be constructed without a building permit on parcels 0.5 acres or less in size.
 - (B) Two detached accessory structures may be constructed without a building permit on parcels greater than 0.5 acre and less than ten acres.
 - (C) Three detached accessory structures may be constructed without a building permit on parcels 10 acres and larger.
 - b. Fences not over six feet high;
 - c. Movable cases, counters, and partitions not over five feet high;
 - d. Retaining walls which are not over four feet in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding flammable liquids;
 - e. Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons and the ratio of height to diameter or width does not exceed two to one;
 - f. Walks and driveways not more than 30 inches above grade and not over any basement or story below;
 - g. Painting, papering, and similar finish work;
 - h. Temporary motion picture, television, an theater stage sets and scenery;
 - i. Prefabricated swimming pools in which the pool walls are entirely above the adjacent grade and if the capacity does not exceed 5,000 gallons;
 - j. Antennas and / or their supporting structures other than buildings, accessory to residential use less than ten feet in height and lower than the structure height limit in the zoning district in which located, or which were constructed or erected prior to July 1, 1988;
 - k. Temporary emergency noncommercial telecommunication sites operated by a governmental agency, or by a volunteer public safety agency officially sanctioned by a governmental agency for that purpose, for public safety communication uses, for a period not to exceed six months.

The above exceptions to the building permit requirements do not exempt structures from meeting the other applicable provisions of this Code, including but not limited to the applicable zoning district setback and height requirements and the provisions of the Floodplain Overlay District.

2. The Building Official shall not issue any building or grading permit unless the following requirements are met:
 - a. The plans for the proposed erection, construction, reconstruction, alteration, or use fully conform to all applicable provisions of this Code, including but not limited to any existing approval granted under this Code. A zoning affidavit may be required prior to issuance of a building permit or Land Use approval to ensure the structure or use conforms to the planning or building review and approval of the proposal. The approved use may not change without approval from the Director, and a revised affidavit reflecting any changes may be required. Zoning affidavits shall be recorded with the Boulder County Clerk and Recorder and shall apply to subsequent owners of the property;
 - b. Boulder County Public Health has issued a permit for or has otherwise approved the sanitation system to serve the proposed structure or use, if applicable;
 - c. The County Engineer has approved the access for the proposed structure or use pursuant to this Code and the Transportation Standards and Specifications; and
 - d. The proposed plans comply with all applicable provisions of the Building Code.
 3. A building permit shall be valid for the period specified on the permit, and as provided in the Building Code.
 4. The Building Official shall not issue any occupancy permit or issue any final inspection approval until Boulder County Public Health has completed a final inspection and approval of any required sanitation system to serve the proposed structure or use.
 5. In addition to any other enforcement remedy specified in this Code, the Building Official, the Director, or the County Engineer may withhold or demand the withholding of the issuance of any building permit or other permit under this Code, or may refuse to accept or process any application or authorization for a structure, activity, or use, involving for any property on which a violation of this Code has been determined to exist.
- B. Temporary Cessation on Issuance of Building Permits when Zoning Amendments Pending**
1. Provided that the Commissioners have specifically determined that conditions require such action and have so authorized in a public meeting, the Building Official shall not issue any building permit for the proposed erection, construction, reconstruction, alteration, or use which would be in violation of the proposed amendments to this Code (text or maps) pending before the Planning Commission or Commissioners, from time of first public notice of such consideration until final disposition by the Commissioners, but in no event longer than six (6) months from the time of first public notice.
 2. In accordance with the County's authority to propose and consider meaningful zoning regulation amendments without risking the establishment of contrary structures or uses through the issuance of building permits during the limited period when regulations are considered, no public hearing or prior notice shall be required for the Commissioners to authorize a temporary building permit cessation pursuant to the preceding paragraph.
 3. Upon any incorporated land becoming unincorporated due to disconnection from a municipality, discontinuance or abandonment of a city or town, or other means, the temporary cessation of building permits in Section 17-300.B.1. shall be in effect. Unless the law governing the disincorporation dictates a different date, the cessation will become effective when the final document effectuating the disincorporation is recorded with the Boulder County Clerk and Recorder. The cessation period shall last for six months, unless a shorter time period is specified by the Board. The purpose of this cessation period is to allow time for the Board to enact amendments to this Code to zone the disincorporated land. This Section 17-300.B.3. shall be considered to be an ongoing resolution of the Board authorizing the cessation of building permits upon the disincorporation of any land within the County in accordance with C.R.S. Section 30-28-121.
- C. Vested Rights**
1. The issuance of any building permit for particular property under this code shall in no way prevent the application of subsequently enacted zoning amendments (text or map) to that property except where rights have fully vested under the law and such subsequent enactment conflicts with such vested rights.
 2. For property where rights have vested solely pursuant to the provisions of Article 68 of Title 24, C.R.S., as amended, subsequently enacted zoning amendments (text or map) shall not preclude the issuance of a building permit for which an application conforming to all approvals and regulations applicable at the time of vesting of such right has been properly filed, except for the following:
 - a. Regulatory enactments and actions to which the affected landowner consents; or
 - b. Regulatory enactments and actions designed to remedy or mitigate the impacts of natural or man-made hazards on or in the immediate vicinity of the subject property, which hazards could not reasonably have been discovered at the time of site specific development plan approval, and which hazards, if uncorrected, would pose a serious threat to the public health, safety, and welfare; or
 - c. Regulatory enactments and actions for which appropriate compensation has been paid the landowner; or
 - d. Regulatory enactments and actions which are general in nature and are applicable to all property subject to land use regulation by Boulder County including, but not limited to building, fire, plumbing, electrical, and mechanical codes.

D. Building Lot

1. No person shall use any parcel for a use which is required by this code to comply with the minimum lot area requirements of the zoning district in which it is located, nor shall any building permit for such parcel be issued, unless the parcel is determined to be a Building Lot by the Director.
2. The Director shall not determine a parcel to be a Building Lot for a principal use if that parcel has been occupied as or designated as a Building Lot for any other principal use, unless such parcel has been expressly approved for multiple principal uses as part of a use permitted by Special Review (Article 4-600) or Planned Unit Development (Article 6).

E. Inspection and Administrative Action against Violations

1. The Director, Building Official, County Engineer, Director of Public Health, or their authorized representatives are empowered, in conformity with the requirements of this subsection (E), to inspect and examine any building, other structure, or parcel or other area of land (collectively, 'premises'), concerning which they have reasonable cause to believe that a use exists, or a violation of a condition of approval as occurred, or construction or alteration work is being performed, or has been performed, in violation of the applicable provisions of this code. If the Director, Building Official, County Engineer or their authorized representatives discover a violation of this Code, the Building Code or a violation of a condition of approval, the Director, in the Director's discretion, may charge the violator for the actual cost to the County of any follow-up inspections and testing to determine if the violation has been remedied. When the Director, Building Official, or authorized representative (collectively, 'the enforcing official') has reasonable cause to believe that a violation of this code is likely to exist on a premises, and that entry onto the premises is necessary to verify the violation, the enforcing official shall first make a reasonable effort to locate the owner or other person having charge or control of the premises, or portion thereof desired to be inspected, and request consent to enter and inspect the premises. If the owner or other person in charge or control of the premises cannot be located or if entry is refused, the enforcing official may seek entry by submitting a sworn affidavit to the proper court of jurisdiction, setting forth facts sufficient to support a reasonable belief that the violation is likely to exist, and that further investigation of the premises is warranted. Any subsequent entry and inspection shall be conducted in accordance with an administrative search warrant issued by the court.
2. Consent to enter or an administrative search warrant shall not be required in the following circumstances:
 - a. To conduct inspections during regular county business hours under an applied for or issued building permit, for work authorized under that permit prior to the issuance of a final Certificate of Occupancy;
 - b. To conduct inspections within the scope of another official document, such as a duly executed zoning compliance affidavit, which grants express or clearly implied consent to enter and inspect;
 - c. To make observations of the premises in plain view from public property or from portions of the premises which are open or accessible to the public, or in which the owner or occupant otherwise lacks a reasonable expectation of privacy;
 - d. To make observations of the premises from private property when the owner of the private property gives consent to do so; or
 - e. In emergency situations in which the enforcing official has reason to believe that the public health or safety is in imminent danger and could be jeopardized by any delay in securing entry.
3. If a violation is found to exist, the enforcing official shall by written order direct that such remedial action be taken forthwith as will result in full compliance with the applicable provisions of this code; provided, however, that the issuance of such order shall in no way or manner be deemed a prerequisite to the institution of such enforcement proceedings as are set forth in this Article 17; and provided further that compliance with such order shall not necessarily be deemed to be a defense to any alleged violation of this code in any court action instituted seeking full compliance therewith.
4. In addition to any other enforcement remedy specified in this Code, the Building Official, the Director, or the County Engineer may withhold or demand the withholding of the issuance of any building permit or other permit under this Code, or may refuse to accept or process any application or authorization for a structure, activity, or use, involving any property on which a violation of this Code has been determined to exist.

F. Judicial Action against Violations

1. Upon a finding of a violation by the Director, the Building Official, the County Engineer, or a County Commissioner the County Attorney is authorized to file lawsuits in county or district court to enforce the provisions of this code.
2. Criminal violations of this code shall be punished by a fine in an amount not to exceed one hundred dollars (\$100.00) for each violation, such fine to inure to the County of Boulder, or by imprisonment in the County jail for not more than ten (10) days, or by both such fine and imprisonment, or by such other remedy as may be specified by amendment to C.R.S. 30-28-124. Each day during which such illegal erection, construction, reconstruction, alteration, maintenance, or use continues shall be deemed a separate offense.
3. Civil remedies against violations of this code may include civil penalties, injunction, mandamus, abatement or any other appropriate action to prevent, enjoin, abate, or remove the violation. Civil fines may be recovered in the same civil action where injunction, mandamus and/or abatement is sought, or separate proceedings may be instituted seeking varying forms of relief, as C.R.S. 30-28-124, 30-28-124.5 or any other applicable provision of law may allow.
4. Unless the Director, Building Official, County Engineer, or the Board determines that immediate legal action is necessary to prevent imminent harm to the health safety, or welfare of the public or to prevent a violation from occurring, the enforcing official shall provide written notice of the alleged violation to the alleged violator at least ten days prior to requesting that the County Attorney proceed with judicial enforcement action.

G. Stay of Judicial Enforcement

1. Appeals to the Board of Adjustment
 - a. A determination by the Director that a zoning violation exists may be appealed to the Board of Adjustment as set forth in Article 4-1200 of this Code.
 - b. Unless the Director, Building Official, or County Engineer determines that immediate legal action is necessary to prevent imminent harm to the health, safety, or welfare of the public or to prevent a violation from occurring, judicial enforcement action against the violator will be stayed in the event of a timely appeal to the Board of Adjustment until a final decision is rendered by the Board of Adjustment, and, if applicable, any reviewing court.
2. Permit Applications. Unless the Director, Building Official, or County Engineer determines that immediate legal action is necessary to prevent imminent harm to the health, safety, or welfare of the public or to prevent a violation from occurring, the County Attorney shall stay, or request that the court stay, any judicial enforcement action if:
 - a. a complete application for a permit or other approval is submitted to the Land Use Department that, if approved, would fully resolve all violations; and
 - b. the application is for a use or activity that may be approved under the current provisions of the Code; and
 - c. the application is for a use or activity that is not the same or similar to an application or permit that was previously denied; and
 - d. in the opinion of the Director, Building Official, County Engineer, or the Board, the application is being pursued diligently and in good faith; and
 - e. in the opinion of the County Attorney, the application was filed in good faith and not for the purpose of causing unreasonable delay or confusion in an ongoing enforcement action.

Unless otherwise ordered by the court, the stay shall remain in effect until a final decision is reached on the application or permit.

17-400 Subdivision Regulation Enforcement

A. Authority for Enforcement

1. The Commissioners and their duly appointed representatives shall have the authority to enforce the provisions of Article 5, Subdivision Regulations in accordance with this Section and the governing statutes (C.R.S. 30-28-110(3)-(4), 30-28-133(1), and 30-28-137(3)-(4), as amended.)

B. Requirement for County Subdivision Approval

1. No division of land constituting a subdivision under applicable state law shall occur unless it is exempt by terms of C.R.S. 30-28-101(10), has been approved under the Subdivision Regulations, or has received approval from the Board of County Commissioners for a subdivision exemption or exemption plat.
2. Any person or person's agent who creates a subdivision and transfers legal or equitable title or sells any land thereby divided before a final plat, as required, for such land has been approved and recorded pursuant to this Code or applicable state law, is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars (\$1000.00) nor less than five hundred dollars (\$500.00) for each parcel of or interest in such land which is sold or where the legal or equitable title to the land is transferred. All fines collected under this provision shall be credited to the General Fund of the County. No person shall be prosecuted, tried, or punished under this provision unless the indictment, information, complaint, or action for the same is instituted prior to the expiration of eighteen months after the recordation or filing in the Office of the County Clerk and Recorder of the instrument transferring or selling such illegally divided land. (C.R.S. 30-28-110(4)(a))
3. The Commissioners shall have the power to bring an action to enjoin any person creating an illegal subdivision as stated in Subsection 2., immediately above, from selling proposed divided land before a final plat for such land has been approved and recorded pursuant to this Code or applicable state law. (C.R.S. 30-28-110(4)(b))
4. In addition to any other enforcement remedy specified in this Code, the Building Official, the Director, or the County Engineer may withhold or demand the withholding of the issuance of any building permit or other permit under this Code, or may refuse to accept or process any application or authorization for a structure, activity, or use, involving any property which is determined to have been divided without the required County approval. (C.R.S. 30-28-110(4)(a))
5. Properties that were divided in violation of regulations or resolutions in effect at the time of such division shall be further subdivided only if the proposal includes provisions which bring the entire original parcel, including the area previously divided in violation of the Regulations or Resolution into compliance with current zoning or subdivision requirements.

C. Enforcement of Subdivision Regulations Process and Platting Requirements

1. No sketch plan, preliminary plan or final plat for proposed subdivided land shall be recommended for approval or conditional approval by the Planning Commission and approved or conditionally approved by the Commissioners, unless it conforms to the provisions of Article 5, Subdivision Regulations, or, as applicable, the exemption plat provisions of Article 9.
2. The Commissioners or the Planning Commission may take appropriate action to deny or to suspend or withdraw any approval of a plan or plat, or to require certain corrective measures to be taken, following a determination that the information provided by the applicant or developer upon which such approval was based is materially false or inaccurate or that new significant information has been brought to the Planning Commission's or Commissioners' attention. Such action may occur at any step in the platting or exemption plat process up to the approval of the final plat by the Commissioners, and shall take place at a regular public hearing. The Planning Commission or Commissioners shall determine at the hearing the nature and extent of the alleged false or inaccurate information, shall consider any new significant information that has been brought to its attention, and shall have power, upon good cause being shown, to deny the plat or plan or suspend or withdraw any approval or require corrective measures to be taken. No action to deny or to suspend or withdraw an approval or require corrective measures shall be taken unless the applicant or developer is present at the hearing at which action is taken and has a fair opportunity to respond to the proposed denial, suspension, withdrawal, or corrective action.
3. If it is determined after any final plat is approved or filed for recording that the plat approval was based on inaccurate, false, or misleading information of a material nature, the Commissioners may take appropriate action to withdraw or reconsider the approval, to require corrective measures, or to void the plat, after a public hearing where adequate notice and opportunity to be heard are given to the applicant or developer, any successor property owners, and any affected adjacent property owners, referral agencies, or service providers.
4. The Commissioners or any purchaser of any subdivided lot, outlot, or other subdivided land subject to a plat restriction 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 any such lot, outlot, or other subdivided land or of any other provision of Part 1, Article 28, Title 30, C.R.S., as amended. Such authority shall include the right to compel rescission of any sale, conveyance, or transfer of title of any subdivided lot, outlot, or other subdivided 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 by any county where so required or otherwise prior to commencement of construction on any such lot, outlot, or other subdivided land. (C.R.S. 30-28-137(3), as amended.)
5. In addition to any other remedy set forth in Part 1, Article 28, Title 30, C.R.S., as amended, the Commissioners or any purchaser of any subdivided lot, outlot, or other subdivided land shall have the authority to bring an action for injunctive relief to enforce any plat restriction (including all obligations contained in documents required to be executed and recorded as part of the final plat approval and all commitments of record of the applicant or developer related to the County's approval of the final plat), plat note, plat map, or provision of a subdivision improvements agreement, and for damages arising out of failure to adhere to any such plat restriction, plat note, plat map, or provision of a subdivision improvements agreement. Nothing in Part 1, Article 28, Title 30, C.R.S., as amended, shall require the Commissioners to bring any action authorized in this provision. (C.R.S. 30-28-137(4), as amended.)
6. In addition to any other enforcement remedy specified in this Code, the Building Official, the Director, or the County Engineer may withhold or demand the withholding of the issuance of any building permit or other permit under this Code, or may refuse to accept or process any application or authorization for a structure, activity, or use, involving any property for which a final plat has not been approved or recorded, or which is the subject of a violation of the final plat approval, including any plat note or restriction or any commitment of record in the County's final plat approval file.

- D. Temporary Cessation on Acceptance of Applications for Approval of Subdivided Land while Planning Studies or Regulatory Amendments in Process
1. If the Commissioners determine at a public meeting that changes in the Article 5, Subdivision Regulations, related land use regulations, or the Comprehensive Plan (including but not limited to a proposed or existing comprehensive development plan under 29-20-105, C.R.S., as amended), that are under active consideration by the Planning Commission, the Commissioners, or the County staff, are such that owners of property will attempt to circumvent the provisions under consideration by applying for approvals of Sketch Plan, Preliminary Plan and/or Final Plat prior to the effective date of the proposed change, then the Commissioners may, by resolution, order the Director to not accept applications for proposals that violate the provisions under consideration and order the Planning Commission and Commissioners not to approve or conditionally approve any application that violates the provisions under consideration. Such resolution may be passed as an emergency measure without public notice. The resolution shall be effective for no more than six months, unless a reasonable longer time is specified in the resolution as necessary to complete actively pursued studies or is expressly authorized by intergovernmental agreement.