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RESOLUTION NO. 26-372 Amended

BOARD OF COUNTY COMMISSIONERS
COUNTY OF EL PASO, STATE OF COLORADO

EL PASO COUNTY LAND DEVELOPMENT CODE AMENDMENT
ENFORCEMENT PROCEDURES AND LEGAL REMEDIES

WHEREAS, the Planning and Community Development Department of El Paso County requests approval of Amendment(s) to Chapter 1, Section 1.15 Definitions and Chapter 11, Sections 11.4.1 Right to Inspect and 11.3 Zoning Violations of the Land Development Code as herein described, including other conforming amendments throughout the Code; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on October 15, 2026, upon which date the Planning Commission did by formal resolution recommend approval of the proposed amendments; and

WHEREAS, a public hearing was held by this Board on November 12, 2026; and

WHEREAS, based on the evidence, testimony, exhibits, consideration of the master plan for the unincorporated area of the County, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments of public officials and agencies, comments from all interested persons, comments by the general public, comments by the El Paso County Planning Commission Members, and comments by the Board of County Commissioners during the hearing, this Board finds as follows:

1. The proposed amendment(s) to the El Paso County Land Development Code was properly submitted for consideration by the Planning Commission;

2. Proper publication and public notice were provided as required by law for the hearing before the Planning Commission;

3. The hearing before the Planning Commission was extensive and complete, that all pertinent facts, matters and issues were submitted and that all interested persons were heard at that hearing;

4. All data, surveys, analyses, and studies, as required by the State of Colorado and El Paso County have been submitted, reviewed, and received into evidence and found to meet the intent of the Introductory Provisions of the Land Development Code;

5. For the above-stated and other reasons, the proposed Amendment(s) are in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of El Paso County.

NOW, THEREFORE, BE IT RESOLVED the El Paso County Board of County Commissioners hereby approves the amendment(s) to Chapter 1, Section 1.15 Definitions and Chapter 11, Sections 11.4.1 Right to Inspect and 11.3 Zoning Violations of the El Paso County Land Development Code, including other conforming amendments throughout the Code, as represented on the attached Exhibit "A" by underlining (additions) and strike-through (deletions):

BE IT FURTHER RESOLVED the record and recommendations of the El Paso County Planning Commission be adopted, except as modified herein.

DONE THIS 12th day of November, 2026, at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

By: _____
Chair

ATTEST:

By: _____
County Clerk & Recorder

EXHIBIT A

- Land Development Code Redlines
- Land Development Code Clean

1.15. Definitions

Violator, Alleged — The owner of record, whether person, partnership, firm, corporation, governmental agency or other association of persons, any authorized agent or representative of the owner of record and any occupant of the premises or property upon which there is ~~probable cause~~ competent evidence to believe a violation of this Code, a County Ordinance, or a development permit or approval exists or has occurred.

11.1.4. Right to Inspect

(A) General Provisions. The PCD Director is hereby empowered to inspect any building, structure, real property, proposed right of way, or tract of land within or upon which there is reasonable cause to believe a use exists or construction or alteration work is being performed, or has been performed, in violation of the applicable provisions of this Code. Such inspections may include the following:

- ~~Observations of the property from those portions of the property which are open or accessible to the public, from public property, or from other private property for which permission to enter has been obtained from the owner or occupant.~~ Observations of the property will be made from public property, to include areas that are open and accessible to the public. Observations may also be made from private property in which the owner or occupant has granted permission to enter.
- Entry onto the property pursuant to a court order obtained after submitting a~~n~~ motion for an administrative ~~search~~ entry and seizure inspection which includes a sworn affidavit detailing facts to support a reasonable belief that a violation is likely to exist, and that further investigation of the premises is warranted.
- Entry onto the property in emergency situations in which the PCD Director has reason to believe that the public health or safety is in imminent danger and could be jeopardized by any delay in securing entry.
- Entry onto the property after receiving express permission from the alleged violator.

11.3. ZONING VIOLATIONS

11.3.1. Unlawful Acts

It is unlawful to use real property or improvements thereon; to develop real property, use any land in violation of any regulation, zoning regulation or ordinance, or to erect, construct, reconstruct, remodel, restore or improve a building or structure, or to alter the use of any real property or improvements thereon in any way not in accordance with this Code or with

the terms and conditions of any development application approval or development permit, or without first obtaining all development approvals and permits required by this Code.

11.3.2. Enforcement Procedures

This section sets forth the enforcement options available and the presumed progression of enforcement actions that may be taken by the BoCC, or the PCD Director through an executive determination, to address violations. Nothing in this ~~s~~Section shall prevent the BoCC, or the PCD Director through an executive determination, from exercising discretion to pursue the remedies or any combination thereof, as set forth below or as provided by Colorado law.

(A) Notice of Violation. ~~and Executive Determination~~. A written notice of violation shall be issued by the PCD Director or their designee based on personal knowledge of any violation and competent evidence acquired during a reasonable investigation. The notice shall be sent via first class mail to the alleged violator's mailing address as listed in the records of the El Paso County Assessor's Office and to the mailing address of the subject property, if one exists.

The notice of violation shall specifically describe the nature of the violation, require the violation to be corrected within fourteen (14) calendar days after the date of the notice, and provide that the alleged violator may request additional time to correct the violation. The notice of violation may require that the violation be corrected within a period of time less than 14 days if the PCD Director determines, in his or her sole discretion, that the violation presents an immediate risk to the public health, safety, or welfare. The notice shall provide the enforcement remedies of the county under Part (E) below, including any potential liens related to abatement costs.

(B) **Executive Determination.** If the violation is not corrected within the time period established in the notice of violation or approved extension of time, the PCD Director may issue an executive determination to the alleged violator authorizing the ~~CAO~~ OCA to pursue remedies under Part (~~E~~D)~~of this Section~~ below, subject to appeal as set forth below.

~~The PCD Director shall mail the executive determination to the alleged violator in the same manner as the notice of violation. The executive determination shall specify the nature of the violation and provide 10 ten days after the date of the executive determination for the alleged violator to request an appeal, at no cost to the alleged violator, to the BoCC prior to the CAO pursuing remedies under Parts (D)~~ The executive determination shall be mailed to the alleged violator in the same manner as the notice of violation. The executive determination shall specifically include a description of the violation, the remedies under Part E below, and provide 10 ten days after the date of the executive determination for the alleged violator to request an appeal, at no cost to the alleged violator.

The executive determination shall state that the alleged violator may appeal the PCD Director's decision to the BoCC. The alleged violator must submit an appeal in writing to the PCD Director. Any written appeal must be received by the PCD Director within 10 days after the date of the executive determination. Any such appeals received beyond 10 days shall be deemed untimely.

If no appeal is received within 10 days after the date of the PCD Director's executive determination, then the PCD Director's executive determination shall be final, and the ~~CAO~~ OCA may proceed with litigation to seek remedies pursuant to Part~~s~~ (E)~~(2), (3) of this Section~~below.

(C) Appeal Hearing. If the PCD Director receives a timely appeal from his or her executive determination as set forth in Part (B~~A~~), then the PCD Director shall place the matter on the BoCC's next available land-~~-~~use hearing agenda.

The alleged violator shall be notified of the date, time, and place of the hearing via first class mail to the alleged violator's mailing address as listed in the records of the El Paso County Assessor's Office and to the mailing address of the subject property, if one exists, no less than 5 days prior to the hearing.

At the hearing, the alleged violator shall have the opportunity to present evidence and testimony to show-~~-~~cause why further enforcement action should not be taken. The BoCC shall consider all such evidence and testimony, along with any presentation, evidence, or testimony offered by the Planning and Community Development Department or other County staff, in reaching its decision to affirm or overturn the decision to issue the executive determination.

At the conclusion of the appeal hearing, the BoCC may decide to overturn the decision to issue the executive determination or may affirm the decision and instruct the PCD Director to proceed with 1 or more of the enforcement ~~mechanisms~~ remedies provided in Part (E~~D~~) below.

The appeal hearing shall not be considered a quasi-judicial or legislative action or matter under any circumstances.

(D~~B~~) **Revocation of Approvals and Permits.** If an alleged violator is in violation of the terms and conditions of a development application approval or development permit that was issued by ~~the~~ PCD without review by the Planning Commission or the BoCC, the PCD Director may revoke the development permit or development application approval. Notice of the revocation may be sent via first class mail to the ~~property owners~~alleged violator's mailing address as listed in the records of the Assessor's Office and to the mailing address of the property if one exists. Appeals of revocations may be taken to the BoCC pursuant to the procedures set forth in the Procedures Manual.

(E~~D~~) **Remedies.** The following remedies for enforcement of the Code shall be cumulative and shall in no way limit the BoCC's authority to seek any other remedy available at law for violations of the Code:

(1) **Criminal Prosecution.** Only the BoCC may authorize the initiation of criminal prosecution for violations of the Code.

(2) **Injunction.** The BoCC, or the PCD Director through an executive determination, may refer the matter to the ~~CAO~~ OCA for the institution of an injunction, mandamus, ~~abatement,~~ or other appropriate action to prevent, enjoin, ~~abate,~~ or remove a violation or to otherwise restore the premises to the condition that existed before the violation, pursuant to state statute.

(3) District or **County Court Action for Civil Remedies.** The BoCC, or the PCD Director through an executive determination, may refer the matter to the ~~CAO~~ OCA for ~~filing of~~ a District or County Court filing action seeking the imposition of civil penalties and/or remedies pursuant to § C.R.S. 30-28-124, as amended. ~~State statute.~~

(4) **Abatement.** The BoCC, or the PCD Director, through an executive determination, may refer the matter to the ~~CAO~~ OCA for filing of an abatement action pursuant to § C.R.S. 30-28-124, as amended.

1.15. Definitions

Violator, Alleged — The owner of record, whether person, partnership, firm, corporation, governmental agency or other association of persons, any authorized agent or representative of the owner of record and any occupant of the premises or property upon which there is competent evidence to believe a violation of this Code, a County Ordinance, or a development permit or approval exists or has occurred.

11.1.4. Right to Inspect

(A) General Provisions. The PCD Director is hereby empowered to inspect any building, structure, real property, proposed right of way, or tract of land within or upon which there is reasonable cause to believe a use exists or construction or alteration work is being performed, or has been performed, in violation of the applicable provisions of this Code. Such inspections may include the following:

- Observations of the property will be made from public property, to include areas that are open and accessible to the public. Observations may also be made from private property in which the owner or occupant has granted permission to enter.
- Entry onto the property pursuant to a court order obtained after submitting a motion for an administrative entry and seizure inspection which includes a sworn affidavit detailing facts to support a reasonable belief that a violation is likely to exist, and that further investigation of the premises is warranted.
- Entry onto the property in emergency situations in which the PCD Director has reason to believe that the public health or safety is in imminent danger and could be jeopardized by any delay in securing entry.
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This section sets forth the enforcement options available and the presumed progression of enforcement actions that may be taken by the BoCC, or the PCD Director through an executive determination, to address violations. Nothing in this section shall prevent the BoCC, or the PCD Director through an executive determination, from exercising discretion to pursue the remedies or any combination thereof, as set forth below or as provided by Colorado law.

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(B) Executive Determination. If the violation is not corrected within the time period established in the notice of violation or approved extension of time, the PCD Director may issue an executive determination to the alleged violator authorizing the OCA to pursue remedies under Part (E) below, subject to appeal as set forth below.

The executive determination shall be mailed to the alleged violator in the same manner as the notice of violation. The executive determination shall specifically include a description of the violation, the remedies under Part E below, and provide 10 ten days after the date of the executive determination for the alleged violator to request an appeal, at no cost to the alleged violator.

The executive determination shall state that the alleged violator may appeal the PCD Director's decision to the BoCC. The alleged violator must submit an appeal in writing to the PCD Director. Any written appeal must be received by the PCD Director within 10 days after the date of the executive determination. Any such appeals received beyond 10 days shall be deemed untimely.

If no appeal is received within 10 days after the date of the PCD Director's executive determination, then the PCD Director's executive determination shall be final, and the OCA may proceed with litigation to seek remedies pursuant to Part (E) below.

(C) Appeal Hearing. If the PCD Director receives a timely appeal from his or her executive determination as set forth in Part (B), then the PCD Director shall place the matter on the BoCC's next available land-use hearing agenda.

The alleged violator shall be notified of the date, time, and place of the hearing via first class mail to the alleged violator's mailing address as listed in the records of the El Paso County Assessor's Office and to the mailing address of the subject property, if one exists, no less than 5 days prior to the hearing.

At the hearing, the alleged violator shall have the opportunity to present evidence and testimony to show-cause why further enforcement action should not be taken. The BoCC shall consider all such evidence and testimony, along with any presentation, evidence, or testimony offered by the Planning and Community Development Department or other County staff, in reaching its decision to affirm or overturn the decision to issue the executive determination.

At the conclusion of the appeal hearing, the BoCC may decide to overturn the decision to issue the executive determination or may affirm the decision and instruct the PCD Director to proceed with 1 or more of the enforcement remedies provided in Part (E) below.

The appeal hearing shall not be considered a quasi-judicial or legislative action or matter under any circumstances.

(D) Revocation of Approvals and Permits. If an alleged violator is in violation of the terms and conditions of a development application approval or development permit that was issued by PCD without review by the Planning Commission or the BoCC, the PCD Director may revoke the development permit or development application approval. Notice of the revocation may be sent via first class mail to the alleged violator's mailing address as listed in the records of the Assessor's Office and to the mailing address of the property if one exists. Appeals of revocations may be taken to the BoCC pursuant to the procedures set forth in the Procedures Manual.

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