

RESOLUTION NO. 24-

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

**RESOLUTION TO AMEND THE EL PASO COUNTY PARKS
RULES AND REGULATIONS**

WHEREAS, Section 29-7-101(2), C.R.S., authorizes the Board of County Commissioners of El Paso County, Colorado (hereinafter “Board”) to regulate the use of public park lands and facilities owned and operated by El Paso County by promulgating rules and regulations pertaining hereto; and

WHEREAS, such lands and facilities serve a public use and promote the health, safety, and general welfare of the inhabitants of El Paso County; and

WHEREAS, the Board previously adopted updates to the Parks Rules and Regulations (“Rules”) on January 31, 2023 by way of Resolution 23-33, recorded in the El Paso County Clerk and Recorder’s records at reception no. 223009600; and

WHEREAS, the most recent update inadvertently removed revisions which had been previously approved in 2019 relating to open hours of parks and dogs at large as reflected in the attached Exhibit A; and

WHEREAS, adoption of Exhibit A incorporates the previous updates from Resolution 23-33 and also corrects the language inadvertently left out which was previously adopted by the Board in 2019; and

WHEREAS, the Parks Rules and Regulations continue to provide that pursuant to Section 29-7-101, C.R.S., in addition to the El Paso County Sheriff, Undersheriff, and Deputies, staff from El Paso County Security are authorized and designated to enforce Parks Rules and Regulations by issuance of citations or summonses and complaints; and

WHEREAS, the Board finds the amended County Parks Rules and Regulations beneficial for the safe and efficient operation of the County Parks system and in the best interest of the citizens of El Paso County.

NOW, THEREFORE, BE IT RESOLVED that the Board of County Commissioners of El Paso County, Colorado hereby authorizes and approves the amended El Paso County Parks Rules and Regulations, at Exhibit A.

BE IT FURTHER RESOLVED, that pursuant to Section 29-7-101, C.R.S., in addition to the El Paso County Sheriff, Undersheriff, and Deputies, that the El Paso County Security personnel shall continue to be designated and authorized to enforce the Parks Rules and Regulations by issuance of citations or summonses and complaints and may utilize the penalty assessment procedure defined under Section 16-2-201 C.R.S., as further provided in Section 12 of Exhibit A.

BE IT FURTHER RESOLVED that Cami Bremer, duly elected, qualified member and Chair of the Board of County Commissioners, or Carrie Geitner, duly elected, qualified member and Vice Chair of the Board of County Commissioners, is hereby authorized and appointed on behalf of the

Board to execute any and all documents necessary to carry out the intent of the Board as described herein.

DONE THIS 6th day of February, 2024 at Colorado Springs, Colorado.

ATTEST:

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

By: _____
Steve Schleiker,
County Clerk and Recorder

By: _____
Cami Bremer, Chair

Exhibit A

EL PASO COUNTY PARKS **RULES AND REGULATIONS**

Section 1: DEFINITIONS

1.1: EL PASO COUNTY PARKS OR COUNTY PARKS: The El Paso County Community Services Department / Parks Operations Division / Planning Division / Recreation and Cultural Services Division.

1.2: DIRECTOR: The Director of the El Paso County Community Services Department, or his or her designee.

1.3: ADVISORY BOARD: The El Paso County Park Advisory Board.

1.4: BOARD: The El Paso County Board of County Commissioners.

1.5: PARK OR PARK PROPERTY: Those areas, structures or facilities which are parks, trails, recreation facilities, real or personal property or improvements thereto, conservation easements, and open space areas owned or leased by the County of El Paso which are under the control, management and supervision of El Paso County Parks.

Section 1(B): EXCEPTIONS TO POLICY

Exceptions to policies stated here are at the discretion of the Director. Requests for exceptions are given thorough review and are only granted if the Parks staff and/or Advisory Board judge that such exceptions are consistent with the parks' and publics' best interest. Exceptions are specified in writing by Parks staff. Persons granted exceptions are required to bring written proof of such to the park in order to aid park employees and/or law enforcement persons in upholding park rules.

Section 2: PARK HOURS; CLOSINGS; TRESPASSING

2.1: PARK HOURS: Regional parks shall be open for public use daily from five o'clock (5:00) a.m. until nine o'clock (9:00) p.m. unless otherwise posted. Community parks, recreation areas, open space, regional trails and trailheads shall be open for public use daily from dawn until dark, unless otherwise posted. It shall be unlawful for any person other than employees of El Paso County Parks or law enforcement personnel to enter or remain in the parks at any other time. However, the Director may extend or limit the time specified above by issuing a park permit in accordance with Section 3.1 of these Rules.

2.2: PARK CLOSINGS: The Director is hereby authorized to close any park or portion thereof, at any time as determined necessary for the protection of park property or for the public health, safety, or welfare.

2.3: CLOSED PARK AREAS: It shall be unlawful for any unauthorized person to enter or remain in any park area which is barricaded or posted as closed to the public. No person shall aid or abet the use of any area in violation of the posted notice.

2.4: TRESPASSING: Any violation of Sections 2.1, 2.2, or 2.3 shall be considered trespassing and subject to the fine schedule as provided in Section 12.2.

Section 3: PARK PERMIT REQUIREMENTS

3.1: PARK PERMIT: A park permit shall be obtained by persons who desire to use a park or portion thereof to the exclusion of others, or when such park(s) is closed to the public. The Director may list those parks or areas thereof for which a park permit is deemed necessary. Reservation or use of any park or portion thereof for a special purpose, such as a public gathering, entertainment, athletic practice, games or tournament, exhibition, commercial use, day camps, or any other activity shall require a park permit.

3.2: ISSUANCE OF PARK PERMIT: The Director may issue a permit when the following conditions are satisfied:

- a) The proposed use of the park will not unreasonably interfere with or detract from the general public enjoyment of the park;
- b) The proposed use will not unreasonably interfere with or detract from the promotion or preservation of the public health, safety and welfare;
- c) The proposed use will not entail extraordinary expense to County Parks or the County;
- d) The park or portion thereof has not been previously reserved for other use at the same date and time requested in the application.

3.3: APPLICATION FOR PARK PERMIT: Applications for park permits may be done in accordance with the appropriate reservation and use policy.

3.4: FEES: Fees are set by the Board and shall be assessed for the issuance of a park permit, and must be paid upon the granting of the permit. Fees assessed may include a permit fee, special event fee, use fee, cleanup/damage deposit and other fees as deemed necessary. The Director may assess additional fees to cover the expense of services that will be provided to the permittee by El Paso County Parks and/or the County. Such additional fees shall not exceed expenses reasonably anticipated in connection with the services provided.

3.5: INSURANCE REQUIRED: As a condition to the issuance of a park permit, the Director may require proof of public liability and property damage insurance naming El Paso County as an additional insured party with the permittee. The insurance coverage shall be provided in limits commensurate to the County's maximum liability for combined single limit bodily injury and property damage.

3.6: INDEMNIFICATION OF COUNTY: The permittee shall be responsible for any and all damage to property or injury to persons arising out of the exercise of the permit, and shall indemnify and hold harmless the County and all its officers, agents and employees from all suits, actions or claims of any character, name and description brought for or on account of any injuries or damages received or sustained by any person or persons or property on account of the exercise of the permit or of any action or omission of the permittee thereunder, his agents or employees, or on account of the failure of the permittee to maintain or to provide necessary safety devices to ensure the safety of the public; and the permittee shall defend against any such suit, action or claims and pay any judgment, with costs, which may be obtained against the County, its officers, agents or employees growing out of such injury or damage.

3.7: LIABILITY OF PERMITTEE: The person/group to whom permission is granted shall be liable for any and all loss, damage, or injury sustained by any person or property by reason of the actions of the permittee. The permittee shall also be liable for the actions of any person using the park or portion thereof under the permit that has been issued.

3.8: EFFECT OF PERMIT: The permittee and all persons using a park in conjunction with the approved activity shall be bound by all park rules and regulations, applicable County and City ordinances, codes and State statutes. Agreement to abide by the same shall be a condition precedent to issuance of a permit. Such permittee shall be responsible for the overall conduct of participants, guests and contractors involved in the scheduled event. Violations may be grounds for cancelling the permit and /or denial of future permit applications.

The permittee will be solely responsible for conducting the scheduled event, including but not limited to, scheduling, advertising, traffic, parking, crowd control, security and on-site medical services, clean-up, as well as all labor, materials and expenses related to the conduct of the scheduled event.

The permittee will be solely responsible for making application, paying fees, and for the securing of all necessary permits as required by City, County or State ordinances, codes or statutes including, but not limited to, requirements of public health, safety, welfare, fire, and sales and use taxes. The permittee will be responsible for ensuring observance of, and compliance with, all City, County or State ordinances, codes or statutes as well as these rules and regulations. The permittee will be solely responsible for paying any required damage deposit. Parks Staff will assess and determine the condition of the area after permittee's use.

3.9: APPEAL PROCEDURE: Any applicant for a park permit or any person protesting such application who is aggrieved by the decision of the Director may appeal such action or decision in writing to the Advisory Board within ten (10) days of such decision. The appeal shall be heard and determined by the Advisory Board at its next regular meeting if the appeal is received not later than the day before the meeting. Any additional appeals beyond those to the Advisory Board must be presented to the Board of County Commissioners.

3.10: REVOCATION OF PERMIT: The Director shall have the authority to revoke a park permit upon finding a violation of any park rule or regulation, applicable County ordinance or State statute, failure to fulfill requirements specified in the park permit agreement, or upon other good cause shown.

3.11: PERMIT EXHIBITED: Permittee must be able to produce or exhibit any permit received from El Paso County Parks upon the request of any person authorized to inspect the same to enforce compliance with any park rule or regulation, or applicable County or City ordinance, code or State statute.

3.12: PERMITTEES ENTITLED TO PARK USE: County park areas shall be available on a first-come, first-served basis except when an area has been reserved for a specific use. Should this situation arise, holders of a valid park permit shall be entitled to occupy the reserved area, and earlier users shall be required to relocate. Permittee will be allowed exclusive use of the facility for the time frame noted on the permit.

Section 4: VANDALISM

4.1: PARK PROPERTY: It shall be unlawful for any unauthorized person to injure, deface, destroy, sever, or remove any park property.

4.2: REGULATORY SIGNS: It shall be unlawful for any unauthorized person to violate rules, regulations and/or conditions governing the use of any park area as posted on regulatory signs.

Section 5: ENVIRONMENT

5.1: DAMAGE TO TREES; GRASS: It shall be unlawful for any unauthorized person to attach any rope, wire, or other contrivances to any tree or plant on park property. It shall be unlawful for any unauthorized person to dig or otherwise disturb grass, plant, or natural areas, or in any other way to injure or impair the natural beauty or usefulness of any area in any park.

5.2: WILDLIFE: It shall be unlawful for any unauthorized person to hunt, molest, harm, frighten, kill, trap, chase, tease, shoot, feed or throw missiles at any animal, reptile or bird in any park unless such action is taken in defense of self or others. It shall be unlawful for any unauthorized person to remove from a park or possess young of any wild animal, or the eggs, nest, or young of any reptile or bird; nor shall any unauthorized person collect, remove, possess, give away, sell, offer to sell, buy, offer to buy, or accept as a gift a specimen of any animal, reptile or bird whether dead or alive.

5.3: POLLUTION OF PARK WATERS: It shall be unlawful for any person to throw, discharge, otherwise place, or cause to be placed in the waters of any fountain, pond, lake, stream, or other body of water in any park, or any tributary, stream, storm sewer, or drain flowing into such waters, any substance which will or may result in the pollution of said waters.

5.4: REFUSE/TRASH: It shall be unlawful for any person to bring or possess any glass bottles in any park. It shall be unlawful to bring refuse or trash to dispose of in any park. No person shall place refuse or trash in any waters in or contiguous to any park. All refuse or trash related to park use shall be placed in the proper receptacles where provided. Where receptacles are not provided, all refuse or trash shall be carried away from the park. Residential trash and construction debris shall in no event be placed in such receptacles.

Section 6: VEHICLES

6.1: PARK ROADS; PARKING: It shall be unlawful for any unauthorized person to drive or park any motorized vehicle in any area except upon designated park roads or parking areas, or such other areas as designated by the Director or except as designated in Section 6.6 regarding the American with Disabilities Act requirements. Off road use is prohibited. It shall be unlawful to leave vehicles or trailers parked overnight in any park or Parks parking lot. Posted speed limits and traffic regulations must be observed. Park trails are designated as non-motorized areas except for maintenance and/or emergency vehicles.

6.2: SNOWMOBILING: It shall be unlawful for any person to engage in snowmobiling in any park area, except those in area designated by the Director for that purpose.

6.3: SLEDDING: Any sledding in any park shall be at the park user's own risk.

6.4: BICYCLES / SKATEBOARDS/SKATES: It shall be unlawful for any unauthorized person to ride a bicycle on other than a park road or trail, or where bicycle use is posted as prohibited. A bicyclist shall be permitted to walk a bicycle over any area reserved for pedestrian use. Bicycles, skateboards, and skates are specifically prohibited on tennis courts or multipurpose courts where posted.

6.5: HORSE DRAWN CONVEYANCES: It shall be unlawful for any unauthorized person to drive or park any type of horse-drawn conveyance in any area except upon designated park roads or parking areas, or such other area as designated by the Director.

6.6: OTHER POWER-DRIVEN MOBILITY DEVICES: The Americans with Disabilities Act (ADA) requires State and Local Governments to make reasonable modifications to policies to allow "other power-driven mobility devices (OPDMD)" to be used by "individuals with mobility disabilities" in areas open to pedestrian use. 28 CFR § 35.137 An OPDMD device is any mobility device powered by batteries, fuel, or other engines--whether or not designed primarily for use by individuals with mobility

disabilities--that is used by individuals with mobility disabilities for the purpose of locomotion. This includes, but is not limited to, electric assisted bikes (EABs), motorcycles, golf carts, electronic personal assistance mobility devices (EPAMDs), such as scooters, or any mobility device designed to operate in areas without defined pedestrian routes. Only persons with mobility disabilities shall be allowed to use OPDMDs in County Parks facilities, including parks, open space and trails. A County representative may inquire about use of an OPDMD and request credible assurances that the mobility device is required because of the person's disability. The County representative shall accept a valid State-issued disability parking placard or card, or State-issued proof of disability as credible evidence; however, in lieu of these, a verbal representation of mobility disability, which is not contradicted by observable facts, shall be credible evidence as well. A County representative shall not ask an individual using a wheelchair or OPDMD about the nature and extent of the individual's disability. El Paso County may develop additional policies and procedures to address OPDMDs, as needed.

6.7: ELECTRICAL ASSISTED BICYCLES: Class I and Class II Electrical Assisted Bicycles may use El Paso County Parks Primary and Secondary trails up to a maximum speed of twenty miles per hour. Class III Electrical Assisted Bicycles are not permitted on any County trail.

Section 7: PICNICS

7.1: PICNIC AREAS: It shall be unlawful for any unauthorized person to picnic in any park in places other than designated picnic locations. Parks staff shall have the authority to regulate the activities in all picnic areas when necessary to protect the resource, prevent congestion and to secure the maximum use of such facilities for the comfort and convenience of all.

7.2: FIRES PROHIBITED; EXCEPTIONS: It shall be unlawful for any person to build, or attempt to build, a fire in any park except in such areas, facilities and under such regulations as authorized by the Director or the County Deputy Fire Marshal. This prohibition shall not apply to the use of gas or charcoal grills provided by the user in designated areas or in charcoal grills provided in the park. No person shall drop, throw, or otherwise scatter lighted matches, burning cigarettes or cigars, tobacco, paper, or other inflammable material within any park property area, or on any contiguous highway or road.

7.3: PICNIC AREAS; FIRES, REFUSE, TRASH: It shall be unlawful for any person to leave a picnic area before the fire is completely extinguished, and before all refuse or trash is placed in the disposal receptacles provided. Ashes are to be left in grills. If no trash receptacles are available, refuse or trash shall be carried out of the park by the person responsible for its presence and properly disposed of elsewhere.

Section 8: RECREATIONAL PURSUITS

8.1: CAMPING RESTRICTIONS: It shall be unlawful for any person to camp overnight in any park or to set up a tent or any other temporary shelter for such purpose unless such activity shall be specifically authorized by permit from the Director. No motor vehicle, movable structure, or special vehicle such as a horse trailer or camper trailer shall be permitted to remain in a park after closing without the Director's authorization.

8.2 FISHING: It shall be unlawful for any unauthorized person to fish in any park waters except in areas and at times designated by the Director. Persons fishing shall comply with applicable State law.

8.3: BOATING: Unauthorized boating on park waters is prohibited except in areas and at times designated by the Director.

8.4: FIREARMS; FIREWORKS; EXPLOSIVES: It shall be unlawful for any person other than law enforcement officers to discharge any firearms, fireworks, or explosive devices in any park except as otherwise designated by the Director. Firearms shall include any pistol, revolver, rifle, shotgun, air gun, gas operated gun, spring gun, paintball gun, or B-B gun, whether loaded or unloaded.

8.5: SWIMMING, SKATING: It shall be unlawful for any unauthorized person to swim, bathe, or wade in any waters or waterways in any park, except as authorized by permit from the Director. It shall be unlawful for any person to go upon the ice of any waters in any park except as authorized by permit from the Director.

8.6: PROPELLING OBJECTS; GAMES: It shall be unlawful for any person to launch or fly rockets, model airplanes, or drones, or to propel objects such as arrows, javelins, golf balls, stones, or other missiles in any park except in designated areas set apart for such forms of recreation. The playing of games such as football, baseball, disc golf, or horseshoes is prohibited except on fields, courts or areas provided for them.

8.7: DOGS; DOMESTIC ANIMALS

a) Animal Defecation: It shall be unlawful for any person to allow any animal over which he or she is responsible for to defecate upon any park property without such excrement being removed and disposed of by the person in control of such animal. Equestrians shall scatter horse manure off parking and/or trail areas.

b) Dogs, Domestic Animals at Large: It shall be unlawful for any person to allow any dog or domestica animal to be unleashed or untethered upon park premises, unless otherwise posted. For those park areas permitting dogs or domestic animals without a leash or tether, such dogs or domestic animals shall be under voice control by the owner or keeper at all times and shall not be a danger to person or property. The Director is authorized to bar dogs and other domestic animals from specific areas in County parks at his/her discretion.

8.8: HOOFFED ANIMALS: It shall be unlawful for any unauthorized person to ride or

walk any hoofed animal except on non-motorized trails, roadways and parking lots except as otherwise designated by permit from the Director. The Director is authorized to bar hoofed animals from specific trails in park areas. Hoofed animals may not be ridden on irrigated turf areas.

8.9 GEOCACHING: It shall be unlawful for any person to place a physical geocache on park property, except as authorized by special use permit from the Director. Unauthorized geocaches will be removed from the park property and disposed of by Parks staff.

Section 9: PERSONAL CONDUCT

9.1: CONTROLLED SUBSTANCES & ALCOHOLIC BEVERAGES:

a) It shall be unlawful for any person knowingly to possess, use or consume controlled substances, and /or alcoholic or fermented malt beverages as defined in Colorado Revised Statutes on any park property without an approved permit by the respective governmental jurisdiction(s). It shall be unlawful for any person to sell controlled substances and /or alcoholic or fermented malt beverages as defined in Colorado Revised Statutes on any park property without an approved permit by the respective governmental jurisdiction(s).

b) It shall be unlawful for any person to enter or be in a park when under the influence of any alcoholic or fermented malt beverage, drug, narcotic or other intoxicant as defined in Colorado Revised Statutes or as prohibited by federal law.

9.2: GAMBLING: It shall be unlawful for any person to illegally gamble in any park, as defined in the Colorado Constitution, Colorado Revised Statutes, and Secretary of State's Rules.

9.3: OFFENSIVE LANGUAGE: It shall be unlawful for any person to engage in loud, boisterous, threatening, abusive, insulting or indecent language which may disturb the peace in any park.

9.4: SOUND AMPLIFICATION: It shall be unlawful for any person to operate sound amplification equipment in any park except as authorized by permit from the Director. All amplified music shall be controlled by the user. Sound levels shall be maintained at levels that do not interfere with scheduled groups, other park patrons, or surrounding residents and which do not violate the noise ordinance of El Paso County.

9.5: NUISANCE: It shall be unlawful for any person to disturb, tend to disturb, or aid in disturbing the peace of others in the park.

Section 10: COMMERCIAL PURSUITS

10.1: PARK USES FOR COMMERCIAL PURPOSES:

Commercial Purpose: Shall include but not be limited to the anticipated use of a park or

portion thereof for personal or private gain including, but not limited to, an activity for which a fee or admission is charged, a class or course of instruction for which a fee is charged, the use of a park or portion thereof for commercial movie making, photography classes, or any other activity from which monetary benefit is to be derived.

a) Any person desiring to use a park or portion thereof for such commercial purpose shall apply to the Director for a park permit. Any commercial use permit request that proposes the use of a park property for six months of continuous use or longer will require the Director to consult with the Chair of the Board of County Commissioners and the County Administrator. If the activity is determined to have a high impact on the park facility or park users, the Director will host a publicized community meeting, as defined by County Parks Public Input Procedures, to obtain citizen input regarding the factors listed in Policy 3.2 and seek consideration from the Park Advisory Board and approval by the Board of County Commissioners.

b) As a condition precedent to the issuance of a park permit to sell food or wares upon park property, the Director may require product liability insurance, and inspection of such products and facilities by the El Paso County Health Department.

10.2: SALES; CONCESSIONS: It shall be unlawful for any person to exhibit or offer for sale any article or service in any park area except those persons granted a concession permit by the Director.

10.3: ADVERTISING: It shall be unlawful for any unauthorized person to paste, glue, tack or otherwise post any sign, placard, advertisement, or inscription whatsoever upon park property without prior approval from the Director.

Section 11: IMPROPER USES OF PARK PROPERTY

11.1 BUILDINGS; STRUCTURES: It shall be unlawful for any person to construct or erect a building or structure of any kind, whether permanent or temporary, in or upon any park property without authorization by the Director.

11.2: UTILITIES: The granting of easements utilizing park land for utility purposes may be granted only through application to El Paso County Parks and approval by the Board of County Commissioners.

11.3: OTHER IMPROPER USES: Other improper uses including, but not limited to, gardening, car storage, and construction access are hereby prohibited except where otherwise allowed by special permit.

Section 12: PENALTIES

12.1: ENFORCEMENT: Pursuant to Section 29-7-101, C.R.S., the El Paso County Sheriff, Undersheriff, Deputies, and El Paso County Security personnel shall enforce the rules and regulations herein adopted. Any person violating any rule or regulation adopted herein shall be punishable by fine pursuant to Section 29-7-101(2), C.R.S. as may be

amended, or as otherwise provided by law. Any person having the authority and responsibility to enforce these Rules and Regulations and having knowledge of any violation of these Rules and Regulations stated herein, may use the Penalty Assessment Procedure defined under Section 16-2-201, C.R.S., as amended.

12.2: FINE SCHEDULE FOR VIOLATION OF RULES: When the Penalty Assessment Procedure is utilized the following schedule of fines shall be applicable only as to the following violations:

Dogs, Domestic Animals at Large (Section 8.7b)

First offense - \$50, Second and subsequent offenses - \$100

Vandalism to Park Property (Section 4.1)

All offenses - \$100

Trespassing (Section 2)

All offenses - \$100

All collected fines shall be paid into a General Fund / Park Fees Account.

12.3: STATE AND FEDERAL LAW: Nothing in these Rules and Regulations is intended to restrict or supplant enforcement of any federal, state, or other local laws, rules, or regulations. To the extent permitted by law, these Rules and Regulations may be enforced concurrent to any federal, state, or local law, rule, or regulation which may be applicable.

Section 13: STATUTORY CONSTRUCTION

13.1: CAPTIONS: The captions and paragraph headings used throughout these rules and regulations are for the convenience of reference only, and the words contained therein shall in no way be held or deemed to define, limit, describe, explain, modify, amplify or add to the interpretation, construction or meaning of any provision to or the scope or intent of these rules and regulations.

13.2: SEVERABILITY: If any provision of these rules and regulations or the application thereof to any party or circumstance shall to any extent be invalid or unenforceable, the remainder of these rules and regulations or the application of such provision to parties or circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby, and each provision of these rules and regulations shall be valid and enforceable to the fullest extent permitted by law.

13.3: REPEAL OF PRIOR RESOLUTIONS: All resolutions, orders and actions of the County, or parts thereof, which are in conflict with this Resolution and these rules and regulations are hereby repealed to the extent of such inconsistency; provided, however, that this repealer shall not be construed as revising any resolution, order or action, or any part thereof.