

ORDINANCE NO. 7

**ADOPTION OF THE COLORADO REVISED STATUTES DEALING WITH PENALTIES AS THEY
RELATE TO ZONING VIOLATIONS,
ESTABLISHING A POLICY FOR ZONING ENFORCEMENT, AND
MODIFYING SECTION 1 OF THE CLEAR CREEK COUNTY ZONING REGULATIONS**

WHEREAS, C.R.S. §30-28-111 et seq., authorizes boards of county commissioners to plan for and regulate the use of land;

WHEREAS, C.R.S. §30-28-111 et seq., authorizes boards of county commissioners to adopt and amend zoning regulations pursuant to specified procedures for the purposes of promoting health, safety, morals, convenience, order, prosperity or welfare of the present and future inhabitants of the county;

WHEREAS, C.R.S. §30-28-116 authorizes boards of county commissioners to amend county zoning regulations pursuant to specified procedures;

WHEREAS, pursuant to C.R.S. §30-28-124 (Penalties) and C.R.S. §30-28-124.5 (County court actions for civil penalties for zoning violations), the county has the power to regulate and enforce the county zoning regulations;

WHEREAS, the Board of County Commissioners believes that it is in the best interest of the residents of Clear Creek County to have the authority to issue and enforce citations for violations of the County Zoning Regulations, including fines, penalties, and jail time. In order to do this the Clear Creek County Zoning Regulations must have provisions for notice of the violation to the property owner and an opportunity for the property owner to comply;

WHEREAS, it is the desire of the Board of County Commissioners to adopt the Colorado Revised Statutes that deal with penalties as they relate to zoning violations;

WHEREAS, this amendment will supersede the County's Zoning Regulations by replacing Subsection J in Section 1, "Title, Authority, and Interpretation";

WHEREAS, the Board of County Commissioners held the first reading on 1 August 2000 to introduce, read, and order published in full and set for public hearing the adoption of the Colorado Revised Statutes that deal with penalties as they relate to zoning violations and the establishment of a policy for zoning enforcement; and

WHEREAS, the Board of County Commissioners, pursuant to a public notice on 9 August 2000 where this Ordinance was published in full, held the second reading on 22 August 2000.

NOW, THEREFORE BE IT ORDAINED the Board of County Commissioners hereby adopts Colorado Revised Statutes that deal with penalties as they relate to zoning violations and the establishment of a policy for zoning enforcement - C.R.S. §30-28-124 (Penalties) and C.R.S. §30-28-124.5 (County court actions for civil penalties for zoning violations).

NOW, THEREFORE BE IT FURTHER ORDAINED that Subsection J in Section 1, "Title, Authority, and Interpretation" of the Clear Creek County Zoning Regulations is replaced with the following.

NOW, THEREFORE BE IT EVEN FURTHER ORDAINED that the Board of County Commissioners hereby approves the following policy for zoning enforcement.

NOW, THEREFORE BE IT EVEN FURTHER ORDAINED by the Board of County Commissioners, that this Ordinance is effective upon adoption, following the second reading.

SECTION 1. TITLE, AUTHORITY, AND INTERPRETATION

SUBSECTION J. ENFORCEMENT AND PENALTIES

It shall be the duty of the County zoning official to enforce the provisions of these Regulations in conjunction with the Colorado Revised Statutes that deal with penalties as they relate to zoning violations and the establishment of a policy for zoning enforcement - C.R.S. §30-28-124 (Penalties) and C.R.S. §30-28-124.5 (County court actions for civil penalties for zoning violations). Inaction or lack of enforcement by any official of the County shall not constitute a waiver of the right of enforcement, even though such inaction may be of long duration.

Ordinance No. 7, as adopted by the Board of County Commissioners, outlines the Policy for Zoning Enforcement that establishes the protocol and procedure for the County zoning official when processing zoning violation cases.

POLICY FOR ZONING ENFORCEMENT

Enforcement Priority: Zoning enforcement cases are primarily undertaken for three reasons: (1) when complaints are received; (2) those highly visible to the general public; and (3) while conducting a site visit on a current case.

Enforcement Procedure: The below process shall apply to all zoning violation cases:

1. Identification of alleged zoning violation.
2. Determine the property legal description, location, and property owner where alleged violation exists.
3. Conduct site visit to verify a zoning violation exists. Photographs are taken to provide visual verification. (*Such verification cannot be obtained by entering on the property, unless permission is obtained by the landowner*)
 - A. If the property owner is present at the time of this initial site visit, a verbal explanation of the violation may be provided with an understanding that it will be followed up with a formal written notice of violation.
4. A written notice of violation is given to the property owner of the parcel where the violation is occurring. The notice of violation shall include, at a minimum, the following information. Such notice of violation is sent certified or served by the Sheriff's Office to the property owner. A copy of the written notice of violation shall be also mailed to any other violators (e.g., tenants), if known.
 - Address/legal description of the parcel on which the violation is occurring.
 - Description of the Zoning Regulation which is being violated.
 - Statement requiring compliance within thirty (30) days of receipt of the written notice of violation or development of an agreement for compliance.
 - Reference to the authorizing statutes and potential ramifications.The following attachments are also included:
 - Copy of the photograph(s) which show the violation.
 - Copy of the relevant section of the Zoning Regulations, if applicable.
 - Copy of the authorizing statutes (C.R.S. §30-28-124 and §30-28-124.5)
5. At the end of the thirty-day period, or the established time frame of an agreement for compliance, a site visit is conducted to either verify compliance or noncompliance of the zoning violation. Photographs are taken to provide visual verification.
6. If the site visit verifies that there is compliance, a letter will be mailed to the property owner acknowledging compliance and that the case will be closed.
7. If the property owner has failed to correct the violation within such thirty-day period or within any extension period granted through the agreement for compliance by the County zoning official, the County zoning official will hand the case over to the County Attorney. After review of the case file, the County Attorney shall have the final determination to process the case under C.R.S. §30-28-124 (criminal penalties) and/or C.R.S. §30-28-124.5 (civil penalties). After final determination, the County Attorney shall then request that the Sheriff's Office issue a summons and complaint to the property owner of the parcel where the violation is occurring. Such request shall be in writing stating the nature of the violation with sufficient particularity to give notice of such charge to the property owner. The Sheriff's Office, County zoning official, and Board of County Commissioners shall be copied on such request.
 - A. The Sheriff's Office, upon receipt of such request from the County Attorney, shall serve the summons and complaint upon the property owner in the manner provided by law. The summons and complaint shall also be filed with the Clerk of the County Court with copies provided to the County Attorney, Board of County Commissioners, and County zoning official.
 - B. The County Attorney will present the County's position and nature of the violation in County Court. The County zoning official and property owner shall be present during all court proceedings.
 - C. If the County Court finds that a violation of the County Zoning Regulations has occurred, the court may impose monetary penalties and/or a jail sentence as authorized in C.R.S. §30-28-124 and §30-28-124.5.
 - (i) If a monetary penalty is imposed, it shall be payable immediately by the property owner to the County Treasurer. For tracking purposes, such funds shall be identified in the Planning Department budget.

- (ii) In the event that the violation has been cured or otherwise removed at least five (5) days prior to the appearance date in the summons, as demonstrated by the property owner, the County Attorney shall so inform the court and request that the action be dismissed without fine or appearance of the defendant.
- D. Upon the filing with the court of a receipt issued by the County Treasurer showing payment in full of a penalty assessed and upon the filing of an affidavit of the County zoning official that the violation has been cured, removed, or corrected, the court shall dismiss the action and issue a satisfaction in full of the judgement so entered.
- E. If a receipt showing full payment of the penalty or the affidavit required by the County zoning official is not filed, the action shall continue and the court shall retain jurisdiction to impose an additional penalty and/or a jail sentence against the property owner in accordance with C.R.S. §30-28-124 and/or §30-28-124.5. Such additional penalty/disciplinary action shall be imposed by the court upon motion filed by the County Attorney and proof that the violation has not been cured, removed, or corrected. Thereafter, the action shall continue until the filing with the court of a receipt issued by the County Treasurer showing payment in full of the penalty and any additional penalties so assessed and the filing of an affidavit of the County zoning official that the violation has been cured, removed, or corrected.
- F. Following the court's issuance of a "satisfaction in full" judgement, the County zoning official shall close the case.


INTRODUCED, READ, ORDERED PUBLISHED IN FULL AND SET FOR PUBLIC HEARING THIS 1ST DAY OF AUGUST 2000.


BOARD OF COUNTY COMMISSIONERS
CLEAR CREEK COUNTY


Robert J. Poirot, Chairman


Jo Ann Sorensen, Commissioner


Fabyan Watrous, Commissioner

ATTEST:

Deputy Clerk and Recorder

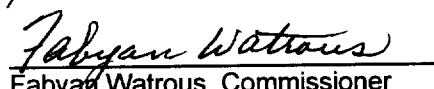

County Attorney

READ, PASSED, AND ADOPTED AFTER PUBLIC HEARING AND ORDERED PUBLISHED BY TITLE ONLY THIS 22ND DAY OF AUGUST 2000.

BOARD OF COUNTY COMMISSIONERS
CLEAR CREEK COUNTY

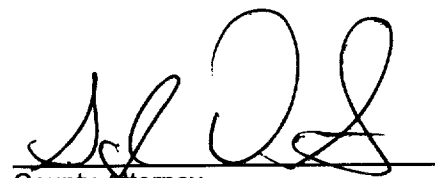

Robert J. Poirot, Chairman


Jo Ann Sorensen, Commissioner


Fabyan Watrous, Commissioner

ATTEST:

Deputy Clerk and Recorder


County Attorney