

Section 16

PENALTIES AND VIOLATIONS

16.1 CONSTRUCTION OR ALTERATION OF BUILDINGS:

It is unlawful to erect, construct, reconstruct or alter any building or structure in violation of this Code, or any amendment hereto adopted or enacted by the Board of County Commissioners. Any person, firm or corporation violating this Code or any amendment hereto is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$100.00 or 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 or alteration continues shall be deemed a separate offense.

16.2 USE OF BUILDINGS, STRUCTURES OR LAND:

It is unlawful to use any building, structure or land in violation of this Code, or any amendment hereto adopted or enacted by the Board of County Commissioners. Any person, firm or corporation violating this Code or any amendment hereof is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$100.00 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 use of any building, structure or land continues shall be deemed a separate offense.

Whenever a county zoning official (including, but not limited to, the land use administrator, building official, zoning enforcement officer or county attorney) has personal knowledge of any violation of this Section 16.2, he shall give written notice to the violator to correct such violation within thirty (30) days after the date of such notice. If the violator fails to correct the violation within such 30 day period, the zoning official may request that the sheriff of the County issue a summons and complaint to the violator, stating the nature of the violation with sufficient particularity to give notice of such charge to the violator. The summons and complaint shall require that the violator appear in County Court at a definite time and place stated therein to answer and defend the charge. One copy of the 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 each shall be retained by the sheriff and the County zoning official, and one copy shall be transmitted by the sheriff to the Clerk of the County Court.

[16.3]

16.3 TRANSFER OF INTERESTS:

Any person who transfers legal or equitable title or sells any subdivided land before a final plat for such subdivided land has been approved by the Board of County Commissioners and recorded or filed in the office of the County Clerk and Recorder, is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$1,000.00 nor less than \$500.00 for each parcel of or interest in subdivided land which is sold. All fines collected shall be credited to the general fund of the County. No person shall be prosecuted, tried or punished under this paragraph unless the indictment, information, complaint or action for the same is instituted prior to the expiration of eighteen (18) months after the recordation or filing in the office of the County Clerk and Recorder of the instrument transferring or selling such subdivided land.

16.4 WITHHOLDING OF PERMIT:

In addition to all other penalties specified for violation of this Code, the County shall withhold building permits, mobile home permits, individual sewage disposal permits and any other permits which may be necessary for the habitation or development of any parcel of land which has been transferred in violation of this Code.

16.5 ACTIONS TO ENJOIN:

In addition to any other penalty specified herein, the County may bring an action to enjoin any developer from selling developed land before a final plat for such developed land has been approved by the Board of County Commissioners and may institute an injunction, mandamus, abatement or other appropriate action or proceeding to prevent, enjoin, abate or remove any unlawful erection, construction, reconstruction, alteration of use of any parcel of land.

16.6 PRIVATE ACTION:

All provisions of an final development plan for a Planned Unit Development shall run in favor of the residents, occupants and owners of the Planned Unit Development but only the extent expressly provided in the plan and in accordance with the terms of the plan and, to that extent, said provisions, whether recorded by plat, covenant, easement or otherwise, may be enforced at law or in equity by residents, occupants or owners acting individually, jointly or through an organization dedicated in the plan to act on their behalf. However, no provisions of the plan shall be implied to exist in favor of residents, occupants and owners except as to those portions of the plan which have been finally approved by the County.

[16.7]

Amended
12/03/90

16.7 NOTICE OF VIOLATION:

In addition to all other penalties specified for violation of this Code, the County may record in the office of the Ouray County Clerk & Recorder, a Notice of Violation, which shall constitute constructive notice to the general public that no permit which may be necessary for habitation or development shall issue from the County on any parcel of land which has been transferred in violation of this Code.

Prior to recordation of the Notice of Violation, the affected landowner(s) shall be entitled to a thirty (30) day notice of intent to record Notice of Violation sent certified mail, return receipt requested to said landowner(s)' last known address as shown by County records. Upon written objection by the Landowner(s) filed in the office of the Ouray County Land Use Administrator, within the aforementioned thirty day period, Notice of Violation shall not be recorded pending administrative review by the Ouray County Land Use Administrator, which review shall take place within ten days of receipt of the aforementioned written Objection. Following administrative review of the written objection and all other circumstances surrounding the alleged violation of this Code, if the Land Use Administrator finds that there has been a violation of the Code, the Notice of Violation shall be recorded forthwith as provided herein. The affected landowner(s) may appeal the Land Use Administrator's finding of violation to the Ouray County Board of Zoning Adjustment. Should the Board of Zoning Adjustment reverse the finding of the Land Use Administrator, the County shall forthwith record a revocation or withdrawal of the Notice of Violation, which was previously recorded.

Compliance with the notice provisions of this Section shall not be a condition precedent to the County's enforcement of the provisions of this Code. Failure of the County to comply with the notice provisions of this Section shall not be deemed to constitute a waiver by the County of any violation of this Code.

Amended
12/3/90

16.8 Any failure by the County to enforce any provision of this Code shall not subject the County to any direct or indirect civil liability therefrom.