

Clear Creek County Subdivision Regulations: Article 1

ARTICLE 1 ADMINISTRATIVE PROVISIONS

101 Short Title

101.01 For the purpose of brevity, the Clear Creek County Subdivision Regulations shall also be referred to as the “Subdivision Regulations” or “Regulations”.

101.02 For the purpose of brevity, the Clear Creek County Board of County Commissioners shall also be referred to as the “Board”.

102 Purpose

In order to achieve quality development, these Regulations are designed and enacted for the following purposes:

102.01 To promote the general health, safety, and welfare of the present and future inhabitants of Clear Creek County.

Land proposed for subdivision shall be such that it can be used for the intended purpose and with all reasonable consideration in its development undertaken to reduce danger to health or peril from fire, flood, geologic hazards, or other natural hazards.

102.02 To guide future growth and development within Clear Creek County that provides adequate and efficient transportation, water, waste disposal, schools, fire and police protection, recreation and open space opportunities, and other services and facilities. Also, to encourage a diversity of housing types and densities and to promote adequate housing.

102.03 To provide for the preservation and conservation of significant stands of vegetation; unique or distinctive topographic features including peaks and rock outcroppings; drainage, riparian and wetlands areas; significant wildlife habitats including breeding grounds, nesting areas, migration routes, and wintering areas; scenic views; identified aquifer recharge areas; and important historical or archaeological sites.

102.04 To protect both urban and rural development by minimizing the conflicts between the land uses and structures.

Subdivisions shall be designed to provide for lots that are of an appropriate size and configuration for the site characteristics and intended uses; connections between neighborhoods, shopping and recreational areas that are safe and convenient; adequate buffering from the adverse impacts of adjoining uses through lot orientation, setbacks, landscaping or other appropriate methods; the conservation of water, land, energy and mineral resources; minimization of grading, road cuts and fills; and a road system designated to preserve the integrity and function of the arterial and local roadway network.

102.05 To ensure that the necessary services and facilities are available and have sufficient capacity to serve the proposed subdivision.

Land proposed for subdivision shall not be approved until the necessary provisions have been made for subdivision design; access, parks, trails, recreation and open spaces, schools, drainage, water, wastewater disposal, traffic controls, road improvements and maintenance, police and fire protection or other reasonably necessary improvements and services. The cost and installation of such improvements, which primarily benefit the land being subdivided, shall be borne by the owner/developers of such land.

102.06 To provide for an adequate and accurate system to record land subdivisions, ensuring proper legal descriptions and survey monumentation, in order to inform the public and especially future residents of the facts about the subdivision thereby safeguarding the interest of the public, the

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homeowner, the subdivider, and the County.

103 Applicability

These Regulations apply to the following situations:

- 103.01 Any division of land into four or fewer parcels, separate interests, or interest in common, as provided for in Article 7 of these Regulations.
- 103.02 Any reconfiguration of boundary lines, as provided for in Article 8 of these Regulations.
- 103.03 Any replat to a previously approved subdivision plat, as provided for in Article 9 of these Regulations.
- 103.04 Any correction to a previously approved subdivision plat, as provided for in Article 10 of these Regulations.
- 103.05 Any road or easement vacation, as provided for in Article 11 of these Regulations.
- 103.06 Any parcel of land which is to be used for condominiums, apartments, or any other multi-unit developments, unless such land when previously subdivided was accompanied by a filing which complied with subdivision regulations with substantially the same density.
- 103.07 Any division of land into five (5) or more parcels, separate interests, or interests in common, except a division:
 - 103.07.1 Where each of the parcels created comprise of thirty-five (35) or more acres of land, and none of the parcels are intended for multiple owners.
 - 103.07.2 Which create parcels of land, such that the land area of each of the parcels, when divided by the number of interests in any such parcel, results in thirty-five (35) or more acres per interest.
 - 103.07.3 Which could be created by any court in Colorado by using the law of eminent domain, or by operation of law, or by order of any court in Colorado if the Board is given timely notice of any such pending action by the court and given opportunity to join as a party in interest in such proceeding for the purpose of raising the issue of evasion of the subdivision requirements prior to entry of the court order; and, if the Board does not file an appropriate pleading within twenty (20) days after receipt of such notice by the court, then such action may proceed before the court.
 - 103.07.4 Which is created by a lien, mortgage, deed of trust, or any other security instrument.
 - 103.07.5 Which is created by a security or unit of interest in any investment trust regulated under the laws of Colorado or any other interest in an investment entity.
 - 103.07.6 Which creates cemetery lots.
 - 103.07.7 Which creates an interest in oil, gas, minerals, or water which is severed from the surface ownership of real property.
 - 103.07.8 Which is created by the acquisition of an interest in land in the name of a husband and wife or other persons in joint tenancy or as tenants in common, and any such interest shall be considered one interest for purposes of subdivision regulations.
 - 103.07.9 Which is created by a combination of contiguous parcels of land into one (1) larger parcel, provided it complies with Article 15 of these Regulations. If the resulting parcel is less than thirty-five (35) acres, only one interest in said parcel shall be allowed. If the

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resulting parcel is greater than thirty-five (35) acres, such acreage divided by the number of interests, must result in thirty-five (35) or more acres per interest (easements and rights-of-way shall not be considered in making these calculations).

103.07.10 Which is created by a contract concerning the sale of land which is contingent upon the purchaser's obtaining approval to subdivide the land being purchased.

103.07.11 Which creates a cluster development pursuant to Part 4 of Article 28 of Title 30 C.R.S.

104 Control over Platting

104.01 No sketch plan, preliminary plan or final plat of a subdivision shall be recommended for approval by the Planning Commission or approved by the Board unless it conforms to the provisions of these Regulations.

104.02 Improvements to and maintenance of public rights-of-way is not the responsibility of the Board until such time as application to and acceptance of such responsibilities by the Board.

104.03 Prior to the issuance of a building permit or construction of any building or structure within a subdivision, the plat thereof shall be approved by the Board and recorded with the County Clerk and Recorder, and access shall be provided in accordance with the Subdivision Improvements Agreement and the Uniform Fire Code.

104.04 The Board may suspend or withdraw any approval of a plan or plat or may require certain corrective measures be taken following a determination that the information provided by the subdivider upon which such approval was based is substantially false or inaccurate or that new significant information has been brought to their attention. Suspension of approval may occur at any step in the platting process at a public hearing.

104.04.1 A written notice from the Planning Department shall be served upon the subdivider, setting out a clear and concise statement of alleged facts and directing the subdivider to appear before the Board no more than thirty (30) days after the date of notification.

104.04.2 The Board shall determine at the public meeting the nature and extent of alleged false or inaccurate information, shall consider any new significant information that has been brought to their attention, and shall have the power, upon good cause being shown, to suspend or withdraw any approval resulting in a voided plat.

104.05 No changes, erasures, modification, or revisions shall be made on the final plat after the approval of the Board, except as required by the approval of the Board.

104.06 No plat for subdivided land shall be approved by the Board unless all ad valorem taxes applicable to such subdivided land, for years prior to that year in which approval is granted, has been paid. [Section 30-28-110(4)(a) C.R.S.]

104.07 It is unlawful to file for recording any such plan or plat as identified above in a public office unless it has been reviewed by the Planning Commission and approved by the Board. [Section 30-28-110(3)(a) C.R.S.]

105 Authority

These Regulations are adopted pursuant to Part I of Article 28 of Title 30 (County Planning) and other applicable sections of the Colorado Revised Statutes (C.R.S.) and is intended to be in accordance with the provisions of those statutes.

106 Jurisdiction

These Regulations shall apply to the subdivision of land in the unincorporated areas of Clear Creek County, Colorado.

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107 Interpretation

The following shall be used as methods of interpreting these Regulations:

107.01 In their interpretation and application, the provisions of these Regulations shall be regarded as minimum requirements.

107.02 Whenever a provision of these Regulations or any provision in any law, ordinance, resolution, rule, or regulation contain restrictions covering the same subject matter, that which is most restrictive or imposes higher standards shall govern.

107.03 These Regulations are not intended to abrogate any easement or any other private agreement or restriction provided that where the provisions of these Regulations are more restrictive or impose higher standards or requirements than such easement, covenant, or other private agreement or restriction, the provisions of these Regulations shall govern.

108 Effective Date

These Regulations and any future amendments thereof shall take effect immediately upon adoption by the Board.

109 Repeals

These Regulations shall repeal subdivision regulations adopted by the Board and amendments made prior to the effective date of these Regulations. Such repeal shall not affect or prevent the prosecution or punishment of any person for the violation of any Resolution repealed hereby, for any offense committed prior to the repeal.

110 Severability

If any section, clause, provision, or portion of these Regulations should be found unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder of these Regulations shall not be affected thereby and is hereby declared to be necessary for the public health, safety, and welfare.

111 Enforcement

These Regulations shall be enforced by an authorized representative of the County on matters involving these Regulations. 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.

111.01 The County is hereby empowered to enter and inspect any building, structure, or tract of land under development in the unincorporated areas of the County.

111.02 When the County has knowledge of any violation hereof, a written notice shall be given to the landowner to correct such violation.

111.03 The County is empowered to request in writing from the landowner the remedy of any condition found to exist therein or thereon which is determined by the County to be in violation of any provision of these Regulations.

111.04 After appropriate notice has been served and if the alleged violation has not been corrected within thirty (30) calendar days, a copy of the file shall be forwarded to the County Attorney for further legal action. The County shall be advised of any actions taken.

111.05 The County may enforce these Regulations by means of withholding building permits pursuant to Section 30-28-110(4)(a) C.R.S.

111.06 Any subdivider or agent of a subdivider who transfers legal or equitable title or sells any subdivided parcel before a final plat for such subdivided land has been approved by the Board and recorded in the Office of the County Clerk, is guilty of a misdemeanor and, upon conviction

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thereof, shall be punished by a fine of not more than one thousand dollars nor less than five hundred dollars for each parcel of, or interest in subdivided land which is sold. [Section 30-28-110(4)(a) C.R.S.]

111.06.1 The description of such lot or parcel by metes and bounds in the transfer document used in the sale or transfer shall not exempt the transactions from such penalties or from the remedies provided in these Regulations.

111.06.2 The Board may enjoin such transfer or sale or agreement by action for injunction brought in any court of equity jurisdiction.

111.07 Any County official or employee, charged with the enforcement of these Regulations, acting in good faith and without malice on behalf of the County in the discharge of this person's official duties, shall not thereby be rendered personally liable for any damages which may accrue to persons or property resulting from any such act or omission committed in the discharge of such duties.

111.08 These Regulations shall not be construed to hold the County in any manner responsible for any injury to persons or property resulting from any inspection as herein authorized or resulting from any failure to so inspect, or resulting from the issuance or denial of a building permit as herein provided, or resulting from the institution of court action as herein set forth or the forbearance by the County to proceed.

112 Appeals

112.1 Appeals may be filed by the subdivider and must be submitted in writing to the Planning Department within fourteen (14) calendar days following receipt of written notification of an alleged violation.

112.2 If an appeal cannot be resolved between parties, the case will go to the Board for a decision in a public hearing.

113 Amendments

The provisions of these Regulations may be amended by the Board following a recommendation by the Planning Commission and proper public notice and hearings.

114 Review Fees

The Board shall establish and adopt a schedule of fees, by separate resolution(s), to be paid by all applicants to cover anticipated expenses incurred by the County in the review and hearing of the proposed subdivision, amendment, replat, exemption or extension.

115 Powers of the Planning Commission

115.01 Review applications and proposals for compliance with these Regulations and make recommendations to the Board.

115.02 Initiate, review, or recommend amendments to these Regulations to the Board.

116 Powers of the Board of County Commissioners

116.01 Review applications and proposals for compliance with these Regulations and approve, conditionally approve, or deny them.

116.02 Void plats, subdivision agreements or other official documents or agreements if it is found that there has been a misrepresentation of fact which impacts the design, or legal or physical status of the subdivision.

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116.03 Modify and amend these Regulations following a recommendation from the Planning Commission. Before finally adopting any such amendment, the Board shall hold a public hearing thereon, at least fourteen (14) days' notice of the time and place of which shall be given by at least one (1) publication in a newspaper of general circulation in the County.

117 Standards for Approval

The following criteria shall be considered by the Planning Commission and the Board in the review of all sketch plans, preliminary plans and final plats:

117.01 Whether the application is in compliance with the requirements of these Regulations, the Clear Creek County Zoning Regulations, and the Clear Creek County master/comprehensive plans, and all applicable building, fire, and health codes, rules and regulations.

117.02 Whether the application is in compliance with all applicable statutory provisions.

117.03 Whether the application is in compliance with State and Federal regulations including, but not limited to, the Colorado Department of Health and Colorado Department of Transportation.

117.04 Whether the application has provided adequate evidence to establish that definite provision has been made for a water supply that is sufficient in terms of quantity, quality and dependability to provide an appropriate supply of water for the type of subdivision proposed. [Section 30-28-133(6)(a) C.R.S.]

117.05 Whether the application has provided adequate evidence to establish that, if a public sewage disposal system is provided, provision has been made for such system and, if other methods of sewage disposal are proposed, adequate evidence that such system shall comply with State and local laws and regulations. [Section 30-28-133(6)(b) C.R.S.]

117.06 Whether the application has provided adequate evidence to show that all areas of the proposed subdivision, which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified by the subdivider and the proposed uses of these areas are compatible with such conditions. [Section 30-28-133(6)(c) C.R.S.]

117.07 Whether the application has provided adequate evidence to show that all necessary infrastructure and services are available and adequate, or will be provided for, to meet the needs of the proposed subdivision including transportation, police and fire protection, schools, recreation and utilities.