The enforcement of land use regulations is an essential but often unenjoyable responsibility. The issues of junk and rubbish, in particular, can create controversy in local jurisdictions. This session looks at efforts in three counties to improve their enforcement programs and provides an overview of legal limitations to zoning enforcements.

Moderator/ Speaker: Bodhy Hedgecock
Associate
Clarion Associates
Denver, Colorado

Panelists: Larry Timm
Planning Director
Larimer County
Fort Collins, Colorado

Lyle Dechant
Mesa County Attorney, Colorado
It’s Dirty Work …
Land Use and Zoning Enforcement in Colorado

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PART I. INTRODUCTION

Enforcement of land use and building code regulations is an essential function of County government. Such regulations are enacted to implement the County’s Comprehensive Plan and to protect the health, safety and welfare of the community. As such, the unintentional or willful disregard of them requires attention and, on occasion, the use of enforcement powers. State statutes expressly grant the power to enforce such regulations to the County and define potential penalties.

Enforcement of zoning and building requirements has become a higher priority for many Colorado communities in recent years. Citizen complaints are increasing. Complainants are also getting more impatient in their requests that perceived zoning violations be addressed quickly – or that long-standing violations be cleared up. Local enforcement staff is often trying to address this added workload in an environment of reduced resources.

The session presents an overview of the legal framework governing enforcement issues along with case studies from two Colorado counties - Larimer and Mesa. In addition, we will discuss how the changing nature of land use regulations is impacting enforcement activities.

Materials in this handout were originally prepared as part of a study conducted by Clarion Associates for Larimer County.

PART II. LEGAL OVERVIEW

The provisions of Colorado Revised Statutes (CRS) governing the enforcement of zoning and land use regulations are summarized below.

1. APPLICABLE LAW
   a. General County Zoning and Building Enforcement Powers

   **CRS 30-28-113** authorizes the Board of County Commissioners to regulate buildings and structures as to size, scale, location, height, open space, use, solar access, etc., and to establish zones or districts to aid in that regulation. They may also require and provide for the issuance of building permits as condition of construction or alteration.

   **CRS 30-28-114** authorizes the Board of County Commissioners to enforce their zoning regulations through the establishment of a County building inspector and the withholding of required building permits. They may require reasonable fees for such permits. It shall be unlawful to construct or alter buildings without such a permit. The inspector shall not issue a permit unless plans fully conform to existing zoning regulations.

   **CRS 30-28-124** establishes penalties for constructing, altering, or using a building or land in violation of zoning standards. Violators are guilty of a misdemeanor and may be subject to fines (not more than $100), imprisonment (not more than 10 days), or both. Every day of violation is considered a separate offense. The County zoning official shall provide notice of violation. If the offense is not remedied within 30 days, the County sheriff or attorney shall issue a summons and complaint, including notice to appear in County Court. The County Attorney, in addition to other remedies provided by law, may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove the violation.
CRS 30-28-209 allows for the enforcement of building code violations. It is identical to 30-28-124 in terms of required process and potential penalties.

CRS 30-28-124.5, adopted in 1998 allows the County to impose civil penalties for zoning regulations, and some counties find this has expedited their enforcement actions. Actions require a summons and complaint in County Court (rather than District Court), and do not carry with them a procedure to obtain an entry warrant or a procedure for collecting fines through liens on the property. If the County Court determines a violation has occurred, based upon a preponderance of the evidence, the violator may be subject to civil penalties not less than $250 or more than $500. It is up to the County Attorney to decide whether to pursue civil penalties. Each day after the issuance of the court order that the violation continues is considered a separate violation and is subject to a continuing penalty in an amount not to exceed $50 dollars per day.

CRS 30-29-210 provides for the use of civil penalties through the County Courts for building code violations. It is identical to 30-28-124.5 in terms of required process and potential penalties.

CRS 30-28-110(4) describes the County powers to enforce subdivision regulations. The County may bring an action against a property owner who files a plat that has not been approved by the County, provided the action is filed within 18 months after the filing. Upon conviction, the illegal subdivider may be fined “not more than $1000 nor less than $500 per parcel or tract sold.” The County may also enforce subdivision regulations by withholding building permits, or through an injunction to prevent the sale of lots in the illegal subdivision.

b. Powers to Remove Rubbish and Dangerous Structures

CRS 30-15-401(1)(a)(l)(A) authorizes Counties to provide for and compel the removal of rubbish, including trash, junk and garbage, from lots and tracts within the County (except from industrial tracts of ten or more acres and agricultural lands currently in agricultural use) and from alleys behind and sidewalk areas in front of the property “at such time, and upon such notice, and in such manner as the Board of County Commissioners may prescribe by ordinance”. Upon failure of the owner to remove the rubbish, the County may perform the removal and assess the reasonable costs, plus five percent for administration, against the property. Actual entry to remove rubbish requires application for and receipt of an administrative entry and seizure warrant from County or District Court.

CRS 30-15-401(1)(q) authorizes Counties to provide for and compel the removal of any building or structure (except for those on land subject to the Mined Lands Reclamation Act or Surface Mining Reclamation Act) if the building or structure presents a substantial danger to public health, safety, or welfare, or any dilapidated building that is unused by the owner or uninhabited because of deterioration or decay, which causes a fire hazard, storm hazard, rodent infestation hazard, or that is used by transients, “at such time, and upon such notice, and in such manner as the Board of County Commissioners may prescribe by ordinance”. Upon failure of the owner to remove the structure or building, the County may perform the removal and assess the reasonable costs, plus five percent for administration, against the property. In Hibbard v. Adams County\(^1\), however, the Court of Appeals clarified that this

\(^1\) 900 P.2d 1254 (Colo. App. 1994)
power does not extend to buildings or structures that are not “neat and orderly” – it must be dangerous, dilapidated, or meet one of the other standards listed above.

CRS 30-15-402(1) provides that a person who violates the rubbish removal or building removal provisions in CRS 30-15-401 shall, upon conviction, be punished by a fine of not more than $1,000 for each violation. The County can decide to use the “penalty assessment” procedure in CRS 16-2-201 – i.e. the procedures generally used by peace officers in issuing minor traffic tickets. The “arresting officer” (who need not be a certified Peace Officer, pursuant to CRS 30-15-402.5) delivers the alleged violator a summons and complaint containing identification of the alleged offender, specification of the offense and applicable fine, a requirement that the alleged offender pay the fine or appear to answer the charge at a specified time and place, and “any other matter reasonably adapted to effectuating the purposes of this section”. The person receiving the notice must either acknowledge his guilt and pay the fine or appear in County Court for trial. If the Court finds guilt, the violator may also be charged court costs.

CRS 30-15-402.5(1) provides that personnel designated by a County in an ordinance to enforce the rubbish and dangerous building removal ordinance may issue citations and summons to violators without having been first certified as meeting the state Peace Officer Standards and Training requirements set forth in CRS 24-31-301.

c. Local Government Land Use Control Enabling Act (“1034 Powers”)  

CRS 29-20-101 (the so-called “1034 Powers”) contains a broad grant of land use control powers to local governments, but its boundaries are unclear. The act provides that each Colorado local government has the power to plan for and regulate land in eight enumerated ways. The first six do not affect this study, but the last two read:

“(g) Regulating the use of land on the basis of the impact thereof on the community or surrounding areas; and

(h) Otherwise planning for and regulating the use of land so as to provide for planned and orderly use of land and protection of the environment in a manner consistent with constitutional rights.”

This broad language arguably gives the County the power to design new zoning and building code enforcement tools. However, in practice, the Colorado courts have interpreted this Act to provide that it does not grant powers to act inconsistently with another Colorado statute that addresses a specific land use topic. Since CRS 30-15-401 and 402 provide a specific procedure to address the removal of rubbish and dangerous structures, it is unlikely that 1034 powers could be used to adopt more expedited approach to these issues. While CRS 30-28-133, 114, 124, and 124.5 set forth general County powers to enforce land use and building codes, they are considerably more general, and it is possible 1034 powers could be used to support a tailored approach to specific problems that is not inconsistent with these statutes.

2 See, for example, Pennobscot Inc. v. Board of County Commissioners 642 P.2d 915 (Colo. 1982) and Wilkerson v. Board of County Commissioners, 872 P.2d 1269 (Colo. App. 1993), and Board of County Commissioners v. Bainbridge, 929 P.2d 691 (Colo. 1996).
For example the creation of administrative enforcement steps to be used prior to filing an action in County or District Court might be possible.
PART III. COUNTY COMPARISON

A comparison of enforcement procedures and policies in five Colorado counties follows. The counties were selected based on similarities to Larimer County in terms of their size, political climate and split between rural and urban areas. The counties interviewed were Adams, El Paso, Pueblo and Mesa.

<table>
<thead>
<tr>
<th>COUNTY CHARACTERISTICS</th>
<th>LARIMER</th>
<th>ADAMS</th>
<th>EL PASO</th>
<th>MESA</th>
<th>PUEBLO</th>
</tr>
</thead>
<tbody>
<tr>
<td>TOTAL AREA (SQ. MILES)</td>
<td>2,632</td>
<td>1,182</td>
<td>2,129</td>
<td>3,346</td>
<td>2,397</td>
</tr>
<tr>
<td>UNINCORPORATED AREA (SQ. MILES)⁴</td>
<td>1,252</td>
<td>1,019</td>
<td>1,596</td>
<td>925</td>
<td>2,348</td>
</tr>
<tr>
<td>POPULATION GROWTH (2000 – 2005)⁵</td>
<td>1.3%</td>
<td>2.7%</td>
<td>1.5%</td>
<td>2.0%</td>
<td>1.5%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ENFORCEMENT RESPONSIBILITY</th>
<th>LARIMER</th>
<th>ADAMS</th>
<th>EL PASO</th>
<th>MESA</th>
<th>PUEBLO</th>
</tr>
</thead>
<tbody>
<tr>
<td>LAND USE</td>
<td>Planning &amp; Building - Land Use Administration</td>
<td>Public Works Code Enforcement – Zoning</td>
<td>El Paso County Development Services</td>
<td>Mesa County Planning Department</td>
<td>Pueblo County Planning and Development</td>
</tr>
<tr>
<td>BUILDING CODE</td>
<td>Planning &amp; Building - Chief Building Official</td>
<td>Public Works Code Enforcement - Building</td>
<td>Pikes Peak Regional Building Department</td>
<td>Mesa County Building Department (Public Works)</td>
<td>Pueblo Regional Building Department</td>
</tr>
<tr>
<td>DEPARTMENT COORDINATION</td>
<td>Departments are located in the same building. Staff communicates through phone, email and permit tracking system. No standing meetings for coordination.</td>
<td>Departments are located in separate buildings. Staff communicates through phone, email and permit tracking system. No standing meetings for coordination.</td>
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</tr>
</tbody>
</table>

⁴ Area equals total county area less federal lands (e.g., Park, Forest, BLM) and incorporated cities.
⁵ Average annual rate, Preliminary Population Forecasts by Region and County, 2000 – 2030, Colorado Department of Local Affairs, November 2004.
### TABLE 1: COMPARISON OF ENFORCEMENT PROGRAMS IN SELECT COLORADO COUNTIES

<table>
<thead>
<tr>
<th></th>
<th>LARIMER</th>
<th>ADAMS</th>
<th>EL PASO</th>
<th>MESA</th>
<th>PUEBLO</th>
</tr>
</thead>
<tbody>
<tr>
<td>scheduled meeting for coordination.</td>
<td>coordination.</td>
<td>coordination.</td>
<td>Cases are referred to Planning Dept. when buildings do not meet land use standards.</td>
<td>Cases are referred to Planning Dept. when buildings do not meet land use standards.</td>
<td>coordination.</td>
</tr>
<tr>
<td>COMPLAINTS</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ANNUAL CASES</td>
<td>LAND USE: 261</td>
<td>LAND USE: 5,921</td>
<td>LAND USE: 511</td>
<td>LAND USE: 150</td>
<td>LAND USE: 100</td>
</tr>
<tr>
<td></td>
<td>BUILDING: 350</td>
<td>BUILDING: 300</td>
<td>BUILDING: 675</td>
<td>BUILDING: 250</td>
<td>BUILDING: 150</td>
</tr>
<tr>
<td></td>
<td>BUILDING: Building w/o permit Unsafe conditions Conversion to residence</td>
<td>BUILDING: Building w/o permit Unsafe conditions</td>
<td>BUILDING: Building w/o permit Unsafe conditions</td>
<td>BUILDING: Building w/o permit Unsafe conditions Abandoned houses</td>
<td>BUILDING: Building w/o permit Unsafe conditions</td>
</tr>
<tr>
<td>COMPLAINT PRIORITIZATION</td>
<td>LAND USE: 1. Health and safety 2. Illegal commercial uses 3. Signs 4. Other</td>
<td>Health and Safety Other violations</td>
<td>Health and Safety Other violations</td>
<td>Health and Safety Other violations</td>
<td>Health and Safety Other violations</td>
</tr>
</tbody>
</table>

6 All figures are for 2004, except for El Paso County, which provided a 5-year average figure, and Mesa County, which provided estimates.
<table>
<thead>
<tr>
<th>STAFFING &amp; RESOURCES</th>
<th>LARIMER</th>
<th>ADAMS</th>
<th>EL PASO</th>
<th>MESA</th>
<th>PUEBLO</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ANNUAL BUDGET</strong> (ENFORCEMENT)</td>
<td>Not Itemized in Budget</td>
<td>$872,711&lt;sup&gt;7&lt;/sup&gt;</td>
<td>Not Itemized in Budget</td>
<td>Not Itemized in Budget</td>
<td>Not Itemized in Budget</td>
</tr>
<tr>
<td><strong>ENFORCEMENT PROGRAM FUNDING SOURCE</strong></td>
<td>LAND USE: General Fund</td>
<td>LAND USE: General Fund</td>
<td>LAND USE: General Fund</td>
<td>LAND USE: General Fund</td>
<td>LAND USE: General Fund</td>
</tr>
<tr>
<td></td>
<td>BUILDING: Special Revenue Fund</td>
<td>BUILDING: General Fund</td>
<td>BUILDING: Permits and Fees</td>
<td>BUILDING: Permits and Fees</td>
<td>BUILDING: Permits and Fees</td>
</tr>
<tr>
<td><strong>ENFORCEMENT STAFFING</strong></td>
<td>LAND USE: 1 Code Enforcement Officer, .2 FTE Admin Asst</td>
<td>LAND USE: 3 Inspectors (no staff assigned exclusively to enforcement), 1 Admin. Asst.</td>
<td>LAND USE: 2 Code Enforcement Officers (with additional duties)&lt;sup&gt;8&lt;/sup&gt;</td>
<td>LAND USE: 1/2 FTE assigned to Code Enforcement&lt;sup&gt;9&lt;/sup&gt;</td>
<td>LAND USE: 1 Code Enforcement Officer</td>
</tr>
<tr>
<td></td>
<td>BUILDING: 1 Code Enforcement Officer, 1 Code Enforcement Technician, 1 temporary part-time Technician (position ends at end of 2005), 5 Inspectors assist as needed</td>
<td>BUILDING: Assistant Building Official oversees inspectors and takes lead in “difficult” enforcement cases; otherwise 8 inspectors respond as necessary</td>
<td>BUILDING: Assistant Building Official oversees inspectors and takes lead in “difficult” enforcement cases; otherwise 8 inspectors respond as necessary</td>
<td>BUILDING: 1 Assistant Building Official assigned to enforcement, assisted by any of the 5 inspectors; 1 Admin. Asst. assigned to enforcement cases</td>
<td></td>
</tr>
<tr>
<td><strong>ENFORCEMENT VEHICLES (LAND USE)</strong></td>
<td>LAND USE: 1 unmarked vehicle from the County car pool (shared)</td>
<td>LAND USE: 1 unmarked vehicle per inspector</td>
<td>LAND USE: 1 marked vehicle, 1 unmarked vehicle</td>
<td>LAND USE: 1 unmarked vehicle</td>
<td>LAND USE: 2 marked vehicles for Planning Department</td>
</tr>
</tbody>
</table>

<sup>7</sup> Budget is for both Zoning and Building Code Enforcement programs

<sup>8</sup> Additional duties include: Annual inspections of Special Uses granted; field verification of parking and landscaping completion when CO is requested; zoning compliance inspections for mortgage purposes; serve as staff to the Board of Adjustment.

<sup>9</sup> NOTE: Mesa County Commissioners will consider a request to increase land use enforcement staff to 3 FTE (2 Code Enforcement Officers, 1 Technician) for the 2006 budget.
<table>
<thead>
<tr>
<th></th>
<th>LARIMER</th>
<th>ADAMS</th>
<th>EL PASO</th>
<th>MESA</th>
<th>PUEBLO</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ENFORCEMENT VEHICLES</strong></td>
<td><strong>BUILDING:</strong> 1 marked vehicle</td>
<td><strong>BUILDING:</strong> 1 marked vehicle per inspector</td>
<td><strong>BUILDING:</strong> 1 unmarked vehicle per inspector</td>
<td><strong>BUILDING:</strong> 1 marked vehicle per inspector</td>
<td><strong>BUILDING:</strong> 1 marked vehicle per inspector</td>
</tr>
<tr>
<td><strong>CASES PER ENFORCEMENT FTE</strong></td>
<td>LAND USE: 261 (1)</td>
<td>LAND USE: 987 (6)</td>
<td>LAND USE: 255 (2)</td>
<td>LAND USE: 300 (0.5)</td>
<td>LAND USE: 100 (1)</td>
</tr>
<tr>
<td><strong>SQ. MILES OF ENFORCEMENT AREA PER FTE</strong></td>
<td>BUILDING: 175 (2)</td>
<td>BUILDING: 75 (4)</td>
<td>BUILDING: 225 (3)</td>
<td>BUILDING: 260 (1)</td>
<td>BUILDING: 75 (2)</td>
</tr>
<tr>
<td><strong>CASES PER ASSIGNED VEHICLE</strong></td>
<td>LAND USE: 261 (14)</td>
<td>LAND USE: 1,480</td>
<td>LAND USE: 256</td>
<td>LAND USE: 150</td>
<td>LAND USE: 100 (15)</td>
</tr>
<tr>
<td><strong>ASSIGNED VEHICLE PER ENFORCEMENT FTE</strong></td>
<td>BUILDING: 350</td>
<td>BUILDING: 100</td>
<td>BUILDING: 675</td>
<td>BUILDING: 260</td>
<td>BUILDING: 150</td>
</tr>
<tr>
<td><strong>UNIFORMS / ID</strong></td>
<td>LAND USE: 1</td>
<td>LAND USE: 0.66</td>
<td>LAND USE: 1</td>
<td>LAND USE: 1</td>
<td>LAND USE: 0</td>
</tr>
<tr>
<td><strong>ENFORCEMENT FTE</strong></td>
<td>BUILDING: Photo ID</td>
<td>BUILDING: Photo ID</td>
<td>BUILDING: Photo ID</td>
<td>BUILDING: Photo ID</td>
<td>BUILDING: Photo ID</td>
</tr>
</tbody>
</table>

10 For the following calculations, only FTE assigned specifically to enforcement are counted (i.e., building inspectors are not counted unless all enforcement activities are handled by the inspectors with no staff assigned to coordinate enforcement activities, temporary staff are not included). The number in parentheses indicates the FTE figure used.

11 Unincorporated Area

12 Total County population is used for this calculation.

13 In general, all building inspectors are assigned a vehicle. Only the vehicles for those inspectors counted as an enforcement FTE are included in this calculation.

14 Technically, there is no assigned vehicle for Larimer County Land Use Code Enforcement. There is a vehicle generally available for use through the County car pool.

15 Land Use Code Enforcement does not have an assigned vehicle in Pueblo County. There are two vehicles available for Planning Department general use.
Handouts
From
Larimer County, Colorado

For

RMLUI Conference

Session: “It’s Dirty Work”
March 10, 2006
Larimer County, Colorado
CODE COMPLIANCE PRIORITY RATINGS

Each code compliance case is assigned a letter priority rating from A to D, “A” being the highest priority. Code Compliance staff process cases in the order of the priority rating.

LAND USE CODE

TYPE A  Code violations having life/safety/health concerns as determined by the Code Compliance Officer or other applicable County staff. Clear or potential danger to life, property or the environment, sewage disposal and other Health Department concerns; Flood Plain violations; wildfire hazards. **Proactive & Complaint Basis**

1. Imminent Dangers;
2. Dangers, but not imminent.

TYPE B  Code violations having a significant impact, as determined by the Code Compliance Officer, on the public, nearby properties and/or the neighborhood, and/or violations for which a timely response is necessary/appropriate. Code violations holding up the issuance of building permits; highly visible junk or debris; high volume junk or debris; junk, debris or other code violations likely to have a significant negative impact on property values in the vicinity or severely impact the quality of life of nearby residents. **Proactive & Complaint Basis**

TYPE C  Code violations which challenge the authority of the County and the credibility of the Code Compliance program. Repeat offenders, violations of County-denied Land Use Code applications, multiple violations, violations of conditions attached to development approvals. **Proactive & Complaint Basis**

TYPE D  Code violations, as determined by the Code Compliance Officer, having little or no impact on nearby residents, properties and/or the neighborhood. **Complaint Basis Only**

01/05/06
Larimer County, Colorado
CODE COMPLIANCE PRIORITY RATINGS

Each code compliance case is assigned a letter priority rating from A to D, “A” being the highest priority. Code Compliance staff process cases in the order of the priority rating.

BUILDING CODE

TYPE A
Code violations having life/safety/health concerns. Clear or potential danger to life, property or the environment, sewage disposal and other Health Department concerns; Building, Plumbing, Electrical, Mechanical and Fire Code violations where life, safety and health are concerns. Proactive & Complaint Basis

1. Imminent Dangers;
2. Dangers, but not imminent.

TYPE B
Current construction of any type taking place without a building permit or with an expired building permit lacking final inspection approvals, or without a land use or other required approval. Situations in which continuation of construction could result in the need to remove, demolish, redesign, or alter the building/structure, or where County land use or other approvals are required but not obtained. Residential or commercial buildings constructed on or after 1/1/1988 without a building permit or with an expired building permit lacking final inspection approvals. Proactive & Complaint Basis

TYPE C
Additions, alterations or remodels of residential or commercial buildings constructed after 8/31/98 without a building permit or with an expired building permit lacking final inspection approvals. Proactive and Complaint Basis.

Additions, alterations or remodels of residential or commercial buildings constructed from 1/1/1988 to 8/31/1998 without a building permit or with an expired building permit lacking final inspection approvals. Complaint Basis Only

TYPE D
All accessory structures, including additions, alterations or remodels, constructed on or after 1/1/1988 without a building permit or with an expired building permit lacking final inspection approvals. Construction of residential or commercial buildings, including additions, alterations or remodels, from 1/1/1972 to 12/31/1987 without a building permit or with an expired building permit lacking final inspection approvals, unless the matter involves or has the potential to involve life-safety issues. Complaint Basis Only

01/05/06
COURTESY NOTICE

LARIMER COUNTY LAND USE CODE VIOLATION

TO THE OWNER OR RESIDENT OF:

_______________________________________________________

PLEASE TAKE NOTICE you are in violation of the Larimer County Land Use Code by virtue of the following:

_____ Trash and Debris
_____ Outdoor Storage
_____ Unlicensed, Inoperable Vehicle
_____ Illegal Sign
_____ Business Not Allowed in Zoning District
_____ Other:

_______________________________________________________

Please call the Code Compliance Officer identified below within seven (7) days from the date of this Notice to discuss resolution of this issue. For general code compliance information, call Jane Culler, Code Compliance Technician at (970) 498-7708. Thank you for your cooperation.

Code Compliance Officer Wendy Dionigi (970) 498-7706
Code Compliance Officer Chad Gray (970) 498-7664

COMMENTS: __________________________________________________

_____________________________________________________________

_____________________________________________________________

________________________________________

CODE COMPLIANCE OFFICER [Date]
Code Compliance Section
Larimer County Planning and Building Services Division
P.O. Box 1190
200 W. Oak Street
Fort Collins, Colorado 80522-1190

1 Voluntary compliance within a reasonable amount of time will prevent further enforcement action, which may include a hearing before the Larimer County Board of County Commissioners and/or initiation of a court action to enforce Larimer County regulations.
CODE COMPLIANCE COMPLAINT FORM

Please print out, sign, and return form to:
Code Compliance Section
Larimer County Planning & Building Services Division
200 W. Oak Street
P.O. Box 1190,
Fort Collins, CO 80522-1190
(970) 498-7708 or 498-7661
(970) 498-7667 (fax)
(970) 498-7662 (24-Hour Message Phone)

Date Received: __________________ Date Received: ________________

A SIGNED COMPLAINT FORM IS NECESSARY BEFORE CODE COMPLIANCE STAFF CAN
INVESTIGATE, UNLESS A LIFE-THREATENING ISSUE EXISTS OR IT IS OTHERWISE DEEMED
APPROPRIATE TO ACT.

Address of Alleged Violation: ___________________________________________________________

Property Owner Name: ________________________________________ Phone: __________________

Address: ____________________________________________________________________________

City: ___________________________ State: _____ Zip: __________

Tenant’s Name: ___________________________ Phone: ______________

How long has the violation existed? _______ Description of Violation: _____________________

_____________________________________________________________________________________

_____________________________________________________________________________________

(continue on reverse side)

Complainant’s Name: ___________________________ Phone: ______________

E-Mail Address: ___________________________ Fax No: ___________ Alt. Phone: ______________

Address: ____________________________________________________________________________

City: ___________________________ State: _____ Zip: __________

Complainant certifies under penalty of perjury that the information set forth above is true and correct of
Complainant’s own knowledge.

Complainant’s Signature ___________________________ Date _________________________

NOTE: The County will keep complainant information confidential. It may only be released to respond to a lawful
court order, or with the permission of the complainant. Please initial whether or not you desire information
revealing your identity to be disclosed. Failure to select disclosure or non-disclosure will result in that information
being subject to disclosure.

_____ DO NOT DISCLOSE _____ YOU MAY DISCLOSE
Land Use and Building Code Enforcement
Larimer County, Colorado
March, 2006

Code Enforcement History

- Zoning CE in Planning Dept.
- Building CE in Building Dept.
- Understaffed
- General Philosophy
- Mostly illegal uses, junk, outdoor storage, illegal signs
Larimer County, Colorado
Land Use and Building Code Enforcement: Analysis and Recommendations

August 2005

Enhanced Code Enforcement
- More Staff
- Combined LU and Bldg Code Enforcement
- Code Compliance Priority Ranking
- Process Flow Chart
- Data Management System (Permits Plus)
- Forms, Handouts
- Web Site

Plans for the Future
- Consider adopting a junk and rubbish ordinance
- Consider refining definition of what amount/type of outdoor storage is accessory to residential uses.
- Continuous improvement
Things To Consider

- Need citizen demand for code enforcement
- Need alignment with elected officials
- Outside analysis & recommendations can be useful to help get what you need
- Structure for long term effectiveness

For More Information

- www.larimer.org/codecompliance
A TRIP TO HELL AND BACK
LAND USE REGULATION OF JUNK AND/OR VEHICLES
LYLE DECHANT
MESZA COUNTY ATTORNEY

During 2004, Mesa County determined that approximately 40% of its code enforcement complaints involved junk and/or vehicles on residential property. At the direction of the Board of County Commissioners, county staff prepared a draft "Junk Ordinance" pursuant to §30-15-401, et. seq, C.R.S., for presentation to and consideration by the Board. The Draft Ordinance was published and the first reading was presented by the County Attorney. What followed was unexpected and traumatic. The proposed Ordinance was not adopted. What was learned?

I. BE PREPARED FOR A BATTLE, POLITICAL AND/OR OTHERWISE

A. Political Candidates love a ready made issue - an election year isn't a good time!

B. Prepare your Board of County Commissioners. A split Board gives you feet of clay. This is not "gentlepersons' law." It can get very personal. (See the attachments)

C. The vehicle issue is a "hot button".

D. It may or may not make a difference if you float the issue for public comment first.

E. The Delta County Example. Lets shoot it out!! Literally!!

II. KNOW YOUR STAKEHOLDER GROUPS

A. Complainants.

B. Commercial Interests.

C. Urban Interests.

D. Rural Interests.

E. Vehicle "Collectors".

1. §42-12-101, et. seq, C.R.S. - If it is 25 years old, "the sky is the limit."


III. EVALUATE YOUR STATUS AND YOUR GOALS

A. Vehicles vs. Junk, vs. Garbage, vs. Trash, vs. Rubbish vs. Weeds
   
   1. What problem are you trying to remedy? A smaller bite at the apple may be the way to go at first.
   
   2. It isn’t too hard to define Garbage. It is harder to define Trash and Rubbish. It is difficult to define Weeds and/or Junk.

B. Board of County Commissioner involvement - limited or extensive? Remember, they are elected officials!

C. Enforcement Timelines - shorter vs. longer?

D. Commercial vs. Private?

E. Urban vs. Rural?

F. Regulation vs. Elimination - Compliance vs. Punishment?

IV. STATUTORY PROCESSES AVAILABLE FOR USE

   
   1. Requires an Ordinance process to put it in place.
   
   2. After adoption, as contemplated in the statute, it is a relatively quick process.

B. Criminal Process - §30-28-124, C.R.S.
   
   1. You need a buy-in from the criminal justice system and law enforcement.
   
   2. The statute is relatively self-contained.

C. County Court Actions for Civil Penalties §30-28-124.5, C.R.S.

D. Injunction, Mandamus, Abatement, Certificates of Designation.
CITIZENS OF MESA COUNTY
YOU are about to lose your
PRIVATE PROPERTY RIGHTS!

Attend this meeting to save your property rights!

MONDAY

MARCH 29, 2004 - 9:00 A.M.
Old County Court House Building
544 Rood Avenue • Grand Junction
Mesa County Board of County Commissioners Meeting Room • 3rd Floor
Press Release - Mar. 15, 2004

WHAT: Lyle DeChant plans to SEIZE MORE POLICE POWER

As reported in a local newspaper, DeChant will ask the County Commissioners for more police power to: "move much quicker" with "a fairly immediate process" to gain access to a landowner's property to seize anything they consider junk.

The problem with this attempted expansion of police power on the part of DeChant, who is not an elected official, but merely a contractor to the county for legal services, and whose contract with the county can be terminated at any time by the commissioners, is two-fold:

1 The County's definition of junk includes almost anyone and anything. They use a red herring of one man, Neil Winder, to gain police power to snoop in anyone's back yard.

From Chapter 12, Definitions, Mesa County Development Code - Junk:
"Used, old, or second-hand...Machinery, dismantled machinery, equipment, vehicles, and parts; Wood or wood products; Manufactured rubber or plastic products; Tools; [farm] implements or portions of; Glass, clay or porcelain products; Cordage, building materials" ANYTHING "THAT HAS BEEN ABANDONED FROM ITS ORIGINAL USE" - What does this portend for Yard Sales and peoples ordinary old things in their back yards? What is next: A Clean up your living room resolution? Think about it!

2 Collection or keeping" of any of these things, at Lyle DeChant's discretion, will determine whether he will get a court order, without your permission or knowledge, to enter and seize your property. Is Big Brother here? Will neighbor start "ratting on neighbor for all sorts of vengeance?"

This is not about "Junkyards" in the traditional sense. It is about "STUFF"in anyone's back yard or property that cannot be seen from the roadway. These sweeping new police powers need to be stopped! They are overly broad, vague and can be used by any County official to harass, intimidate and trespass on private property. They defile the very core of our constitutional rights to privacy and to possess property.

WHEN: 9:00 AM, Monday, March 15th is the first hearing, at the County Building, 544 Rood Ave.

WHO: We The People - a Colorado unincorporated, non profit association, will have representatives attend the hearing to learn first hand what County Government plans in its war on ordinary people - people it considers its "Subjects", not constituents.

For more information, contact Mac Williams, at 434 - 6896; Cell 250-8787; Carlo Godell 242 - 1721, or; Aaron Reid at 216 - 5744
DeChant tries to SEIZE MORE POLICE POWER

Apparently not satisfied with his current ability to trespass and “snoop” into people’s back yards, Lyle DeChant begins a quest for more police power to try and get court authority to determine if you have an old barbecue grill in your back yard, or maybe a broken down lawn mower or two that you’ve been meaning to sell at a yard sale. Old bicycles, or those old tires that came off your truck; that old dirt bike? Forget it. DeChant wants the power to come SNOOP AND SEE WHAT HE CAN SEIZE!

Mesa County Attorney Lyle DeChant (a title misnomer, since he is just a contract lawyer, not an employee or elected official of Mesa County) evidently seems belittled in his attempts to regulate “junk”. Mesa County’s definition of “junk” since 2000, fits almost anyone, for anything, Lyle determines. County code defines junk as almost anything “abandoned from its original use” - MC Development Code, Chapter 12, Definitions for “Junk”. Old machinery and equipment? Forget it. Here comes DeChant’s “back yard polices”. Old building materials for that shed or dog house you were going to build? Watch out, here comes the “Back yard police” with a court order. Just think what DeChant could do if he doesn’t like you. Maybe he is going to use his new police powers to shut down yard sales? This new resolution he seeks will give him that type police power. Private Property rights or Constitutional Rights? Forget about it, Lyle trumps!

Evidently, in a case where DeChant has been the mastermind behind two years of continual harassment, trespass, telescopic photographs, and other violations of privacy against a man in Glade Park, he seems frustrated that he can’t get a judge to let him snoop around this man’s back yard to find things DeChant doesn’t think can be possessed on one’s property in Mesa County. Reading through the case - Mesa County v. Devere Bredvik, Case # 03 CV 477 - will curl your hair, and make you believe “Big Brother” is finally here. But, in a form no one expected - Mesa County government and their contract lawyer - Not a public servant; Not an elected official; Not even a county employee. This case is likely the genesis of Lyle’s latest power move.

Known for his legal intimidation, DeChant is often quoted as saying county government can do anything they want “until someone sues us”. Evidently this philosophy has done well for DeChant. According to our calculations, his budget has increased some 16% per year for the last three years. Litigate, litigate, litigate - to “Keep our subjects in line”, seems to be his motto.

Is Lyle “back room dealing”? Connected to the Bredvik case, was a move, masterminded by DeChant, to steer a generous tax reduction for one of his Democrat chums, - Howard Dean supporter, and wealthy Las Vegas resident, Paolo Scianna. DeChant managed to get an appraiser who works in Curtis Belcher’s office to assist in
reducing the property taxes on a parcel of land owned by Scianna in Glade Park. Now, it seems at Scianna’s behest, DeChant wants more power to come seize Bredvik’s personal property which he legally owns and possesses out of public view. With his new police powers, when is DeChant going to get a court order to come snoop in your back yard? How about a county resolution to tell us to “Clean up your living room”!! Is that next? Here is why all this is ILLEGAL:

1. State law limits county zoning authority to regulate personal possessions only if they can be seen in “ordinary public view” - From a public roadway. Bredvik and numerous other land owners - including small homeowners - can keep their personal possessions, out of site of the public, and county government has no authority to tell them what they may or may not possess (with the exception, of course, of such things as drugs or dangerous, illegal chemicals). DeChant wants to extend County governments power beyond what State law allows.

2. A judge can only issue a “search order” if there is probable cause that something illegal is being maintained on your property. Storing something that is legal - an old lawn mower or two; and old car; old building materials; a decapitated shed; old bicycles; anything that has been “abandoned from its original use” but is legal to own, as long as it is stored where it cannot be seen by the public, is not subject to a court order. UNLESS, DeChant gets a judge to “play favors” against someone he doesn’t like. This is the power DeChant seeks.

JUST SAY NO to more POLICE POWERS for DeChant!

Join us in a rally at Lyle DeChant’s Ranch, 1940 Road 10, in Mack, on the public roadway, so we can snoop on him to see what kind of “junk” he maintains. All ranches and farms have items that have come into disuse. Much, we can see from the public roadway. How about Lyle’s ranch? Let’s go “snoop” on his ranch and see if he has some “junk” that can be seen from the roadway. If we can’t see any, but we think there may be some, we will go to District Court and give the court a petition seeking a court order allowing us entry to Lyle’s ranch, to inspect. - Legal trespass, as long as we’re “snooping for junk”, eh, Lyle?

Send you name and phone number to MacW@RMI.net or call 434 - 6896 for scheduling of We the People’s,

“DeChant Ranch, rally and personal property inspection”

(Date to be announced) - Mac Williams, P.O. Box 546, Clifton, CO, 81520
March 29, 2004 - Sweeping New POLICE POWERS for Mesa County’s “Sheriff of Nottingham” - Lyle DeChant, Mesa County Contract “Attorney-For-Life”

The “TRUST ME” - What DeChant promised at the hearing of 3-15-04:

- We won’t act unless there is a complaint
- We won’t use our power of “aerial surveillance” (500 feet over your house) to take pictures and prosecute you in court. The “Enforcers” currently have aerial photos of every property.
- We won’t enter your land without permission.

The TRUTH:

✓ None of the promises above are written in the ordinance. “TRUST ME” - Lyle DeChant.
✓ “Investigate” is not defined in writing in the ordinance. They can SNOOP ON YOU, in your backyard without your knowledge or permission. They have used, and will use helicopters.
✓ “Reasonable cause to believe” a violation exists is not defined in the ordinance - An “Anything goes” vague, broad-brush phrase. You are powerless to object unless you pay a lawyer. Thus, Litigate to Intimidate - Threaten YOU with legal costs before the “Enforcers” have to prove anything. This is not democracy, but “Power-ocracy”.
✓ The “Enforcers” have sole authority to define “reasonable cause” and can then enter your property at any time during daylight hours. They do not have to get a court order to enter.
✓ The ordinance does not limit frivolous complaints. Someone can file a complaint just to harass you, and the ordinance spells out no redress, nor your right to know your accuser. Currently, the “Enforcers” routinely act on anonymous phone calls.
✓ The ordinance does not define “occupied”. An enforcer can simply say “it looked like it was not occupied”. You have no protections except DeChant’s “trust me”.
✓ Enforcers decide what “Offensive” means. There is no definition in the ordinance.

HIDDEN, even from the County Commissioners:

☐ “Junk” is not defined in the authorizing state statute - 30-15-401 et seq. County Attorney-For-Life DeChant made up the definition in the proposed ordinance.

☐ “ Appropriately covered” (building materials) has no definition at law, and is unconstitutionally vague - A reasonable person cannot ascertain with certainty what he must do to comply.

☐ In “Ordinary Public View” is the only basis that a government in Colorado can regulate your personal possessions on your property merely because they are unsightly or ugly. “Ugly” and “offensive to the eye” are not allowed terms in ordinances in the United States. However, the words “Ordinary Public View” are not contained in Lyle’s proposed ordinance. You
do not have a private right to a view of your neighbor's property. However, the BOCC has used this fallacious reasoning to give tax breaks to their cronies.

☐ A property owner cannot "fence from view" his personal possessions and avoid an action by DeChant's "Enforcers".

☐ **Back Yard Privacy will be no more.** The ordinance has no words to limit "Lyle The Sheriff of Nottingham" from **seizing your stuff in your backyard** that cannot be seen from the street.

☐ **INTIMIDATE and THREATEN** you with legal fees if you don't just give in to demands, regardless if his demands have legal bases or not, like the **Sheriff of Nottingham** did.

**DOUBLE STANDARDS, HYPOCRISY and LIES:**

**DeChant:** ★ Is the Sheriff's office his personal, private police force? ★

☐ Maintains **3 fuel tanks** on his property, which can be seen from the road, but is currently prosecuting DeVere Bredvik in court for having one which cannot be seen from the road.

☐ Instructed the Sheriff to act with prior restraint to evict We The People from his driveway, though we were legally on his walkway approach to his front gate. Proselytizers, solicitors, etc. have a legal right to come up to your door or gate, absent a "no trespass" or "no solicitor" sign. DeChant has no such signs at his property entrance.

☐ Sent "enforcers" twice last year to Mac Williams' house, both of whom walked past a no trespass sign - One enforcer tried to unlatch a chained gate to his driveway to enter his property without permission. A claim against this illegal action is pending in Court.

☐ Was **livid at the invasion of his privacy** by representatives of "We the People" when we were peacefully, and politely, requesting to come onto his property to look for "Junk" or anything we deemed "offensive". Lyle doesn't like invasion of his privacy, but he asks to invade yours, and with "Enforcers" with badges. Legalese - "Quid Pro Quo", eh Lyle?

☐ **Litigate to intimidate** - DeChant's budget has increased by almost 50% in 3 years - From $519,000 in 1999 to $764,000 in 2003 - Almost ¼ Million Dollars in 4 years.

**Tilman Bishop:**

☐ Indicated in a meeting with 5 citizens on March 25th that he fully supports these proposed sweeping police powers, even though it was explained to him they are unconstitutional.

☐ Repeatedly stated "we have a junk problem", ignoring the fact that DeChant's ineptness is the cause. Mesa has all the tools now, that all 64 counties in Colorado have. But, **No other county has proposed** this sweeping, draconian, polarizing ordinance. Likely, because their attorneys realize they are unconstitutional and bad for the community.

**Doralynn Genova:**

☐ Refused to meet with anyone to discuss this bad ordinance. "Draft in secret, then rush it through before anyone notices", is "Power-o-cracy" not democracy.

**We the People, AGREE:** **We have a junk problem** - County Attorney duties should be "Out-sourced" to save money and get rid of the problem. **Watch for this evolving action this election year.** Intimidated by government? Send us a postcard. Chances are we can help. - Editors, WTP
April 5, 2004 - Talking Trash - Burning Bridges

TILMAN “Boss Tillie” BISHOP’S - Baby out with the Bath Water - Commissioner Tilman Bishop’s pet project for a power grabbing, sweeping new ordinance to “clean up Mesa County” ran into a hornet’s nest of some 400 annoyed residents last Monday, at a raucous County Hall (Tilmany Hall) meeting.

Backed up on his heels at the huge, generally upset crowd, at the end of the day he pulled the proposal back for another look. Here is what he promised in re-visiting the proposal over the next 6 months:

- Appoint a committee of ordinary people to identify where his government cannot tread on your right to possess “stuff” on your property. Report due Sept. 27, 2004.
- Instead of talking down to people, hold citizen meetings across the valley to get their feedback on what they want toward a “cleaner Mesa County”.
- He clearly admitted several parts of his original plan, designed by County Attorney Lyle DeChant, appeared to VIOLATE YOUR RIGHTS especially your RIGHT TO PRIVACY.
- Back peddling from his “shove it down their throats” approach, he finally admitted; “Maybe we need to put a new ordinance to a vote of the people.”

HOLD HIM TO HIS WORD: Politician “Lip Flap” won’t fly!

- None of the promises above will come easy. We all need to roll up our sleeves and kill this expansion of government power - Power that only one county in all of Colorado is trying - Mesa - Our county, not government’s county! Here’s what you can do to join the fight from government intrusion into your private home - Your family Castle:

✓ Letters to the Editors: Personal attacks on politicians only, not on private citizens

George Orbanek’s Daily Sentinel - 300 words max; 734 S. 7th St., Gr. Jct., CO, 81501; Fax - 244-8578;
E-Mail- BSilbernagel@GJDS.com; Include: Name, Address, Phone - Address & phone not published.

OR: “You Said It”, Daily Sentinel - 2 or 3 sentences

Free Press - 400 words max; 428 Main St, Gr Jct, CO 81501; Fax 243-4224;
E-Mail BMaxedon@GJFreePress.com; Include: Name, Address, Phone- Address & phone not published.

✓ Volunteer for the citizen committee - Send a letter to the BOCC volunteering:

Fax to 244 - 1639 - “All Commissioner’s” - Tilman, Doralynn, Jim; 544 Rood Ave, Gr Jct, CO 81501

✓ Attend The Hearing - Monday, April 5, 9:00 A.M. to volunteer for the committee or voice your objection to this proposed law. There are other ways to “clean up Mesa County.”

✓ Attend All Committee Meetings, wherever they are held, over the next 6 months. Tell government to stop treading on your rights!

✓ COPY THIS FLYER and pass it out!

Call or write: We the People, democracy for a change, P.O. Box 546, Clifton, CO 81520 - 434 - 6896
Mac Williams protests in front of Mesa County Attorney Lyle Dechant’s ranch in Mack on Sunday.

‘Junk’ group protests at county attorney’s home

By MARIJA B. VADER
The Daily Sentinel

MACK — Five Mesa County residents traveled to County Attorney Lyle Dechant’s home on 10 Road Saturday morning to try to find and define “junk.”

The five walked on Dechant’s driveway and were told to leave by a Mesa County sheriff’s deputy and Dechant himself.

“If they have county business with the county attorney, they need to contact him during business hours,” said Deputy Sheriff B. Donati, who was requested to be there by Dechant’s neighbors.

Calling itself “We the People,” the group, led by government watchdog Mac Williams, opposes an ordinance proposed by the Mesa County commissioners that will see its first public hear-

See JUNK, page 7B

JUNK: Neither defines junk

Continued from page 1B

Advocated county officials holding public hearings throughout the county before drafting an ordinance.

“This really isn’t about junk. It’s about Democracy,” Williams said.

Williams took photos of Dechant’s home and horse farm. He also said he would take more photos of other agricultural properties on his way back to Clifton.

He will use the photos at Monday’s hearing to illustrate “junk.”

In addition to Williams, others who protested Saturday included Neil Winder, Carlo Godel, De Vere Bredvik and Aaron Reid.
Commission seeks input on defining junk

By DANIE HARRELSON  
The Daily Sentinel

Dust off that dictionary this weekend.  
And give that old gas grill in the yard a  
hard look.  
Mesa County officials want to know  
how residents define junk.  
The Mesa County Commission will  
consider a proposed ordinance today  
that would give the county more power to  
enforce its junk laws.  
The proposal has drawn fire from  
those who believe the county is overstepping  
its bounds.  
“Every one thinks it’s too broad,  
that’s why we’re doing this,” County  
Attorney Lyle Dechant said of concern  
over the county’s definition of junk.  
County commissioners will take public  
testimony on the proposal that Dechant  
said would speed up the process of re-  
moving unsightly rubbish and collecting  
payment for cleaning up the mess.  
Today is the first time the Mesa County  
Commission will entertain testimony  
from some of the ordinance’s harsh-  
est critics. Opponents tried to tell the  
commission what they thought of the  
proposal during the last two Monday  
administrative hearings.  
The commissioners quickly cut off  
any comment and reminded would-be  
antagonists to save their appeal for the  
See JUNK, page 5A

JUNK: Distractions not allowed

Continued from Page One

end of the month.  
Grand Junction resident Brad  
Revis got his point across without  
talking. Two weeks ago, he  
worried about the possibility of  
nothing but a barrel with “confiscate  
this” on the front. A few others  
held signs.  
Dechant said those distractions  
won’t be allowed in the  
commissioners’ hearing room  
today.  
Under the proposed ordinance, a judge could give the  
county the go-ahead to place a  
tax lien on property identified  
as needing a clean-up. The cost  
of removing rubbish would show up on the property  
owner’s tax bill.  
Palisade activist Mac Williams  
foresee a “back yard police” removing what the county  
seems fit under a loose definition of junk if the ordinance takes  
effect.  
“What’s offensive to you may  
not be offensive to me,” he said.  
The Constitution protects you  
from the government snooping  
in your back yard.”  
Williams fears the ordinance  
could imperil private property  
righs. Dean Van Gundy, who  
operates a salvage yard off the  
Fifth Street Bridge, purchased  
air time on three local radio stations to warn listeners about the  
threat to private property.  
“I’ve never seen anything this  
severe,” Van Gundy said.  
Dechant maintains the county’s  
policy toward junk removal  
is complaint-driven.  
The meeting begins at 9 a.m.  
in the commissioners’ meeting  
room on the third floor of the  
old Mesa County Courthouse.  

Danie Harrelson can be reached via e-mail at  
dharrelson@gjds.com.