

The Estin Report

Pitkin County

New 2006 Land Use Code Primer



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The New 2006 Pitkin Land Use Code: A Primer

The new 2006 Pitkin County Land Use Code is expected to be approved in mid-July by the Board of County Commissioners (BOCC) after two years of discussion and an entire rewrite of the old code. The last time the code was rewritten was in 1992. Upon adoption, it will go into effect immediately.

As the Aspen Board of Realtors Liaison for the new code and a member of Pitkin Co. Land Use Code Technical Advisory Committee (TAC), here's my Land Use Code Primer for home owners and prospective buyers in Pitkin County, adapted for this column.

The overall objective of the new code is to preserve the rural quality of Pitkin County through the implementation of a greatly enhanced land preservation incentive program aimed at large landowners

The idea is two pronged:

1. To provide landowners with greater financial incentives to preserve their large tracts by encouraging them to sell off their development rights, called Transferable Development Rights or TDR's, to property owners within higher density areas.
2. Concurrently, to create greater demand for TDR's within higher density areas, referred to as the Urban Growth Boundary or UGB, by requiring these property owners to purchase TDR's in order to build additional square footage beyond the county wide limit of 5,750 square feet.

In effect, the new land use code forces home owners within the UGB to pay more to develop their property, and land owners outside the UGB will be compensated more *not* to develop their lands. Or put another way, the urban area will have to pay the price of preserving the green belt outside its walls in order to grow within. It's important to note, however, that the Code does *not* apply to the City of Aspen or other incorporated areas within Pitkin County because these areas have their own zoning regulations.

How will this be done?

The county has set a maximum house size of 5,750 square feet. In order to build beyond that, up to a maximum cap of 15,000 sq. ft., a property owner will have to purchase TDR's in increments of 2,500 sq.ft.. TDR's can only be purchased from designated sending sites and must be landed on designated receiver sites. But even if a property is a designated receiver site, approval for the additional square footage is not automatic. Planning and zoning issues specific to that property and its zoning area, neighborhood opposition, caucus master plans for each geographic area within the county are all important considerations in the approval process.

The punch list of important changes in the new land use code is:

- 5,750 Sq Ft: maximum house size limit with an absolute maximum cap on floor area at 15,000 sq ft.
- TDR's and GMQS: In order to build beyond the 5,750 sq ft maximum - by any additional sq. footage amount - owners will be required to either purchase TDR's

or enter into the Growth Management Quota System (GMQS).

- TDR's - If a property owner wants to add only 200 sq ft, he must purchase one TDR equal to 2,500 sq ft.. The current TDR free market price is approximately \$225-250,000.
- GMQS - a less expensive alternative to TDR purchase for adding more square footage is to enter into the GMQS, a scoring system whereby a building plan that receives a more favorable score from the P&Z because of its, for example, environmentally friendly design and other positive scoring attributes gets to build more square footage.
- Whether through TDR's or GMQS, all square footage allowances are subject to Floor Area Ratio (FAR) calculations. These can be objectively calculated for property owners by the Pitkin Co. Community Development Department.
- Home owners can build up to 4,000 sq ft sub-grade and a garage of no more than 750 sq. ft. In the old code, these were not counted towards FAR; in the new code, they are included as part of the FAR or the 5,750 maximum sq. ft. allowed, whichever is less.
- The 1,000 sq. ft. "Addition" exemption for existing homes will no longer apply: In the old code, if a property owner wanted to build an extra bedroom or bathroom - an addition to his house - he could build up to an additional 1,000 sq. ft. without special review by the P&Z. This 1,000 sq. ft exemption was considered a "gimme" or "freebie", as was 4,000 sq.ft. sub grade and 750 sq. ft. garage square footage. Now, any and all square footage is counted towards the allowable 5,750.
- River Setbacks: The new code requires a 100' setback from streams; the old code allowed for a 20' setback. In some cases where riparian areas are not impacted, a steep slope for example, a 50' setback may be allowed. Both the existing Code and new Code allow for a setback of up to 150 feet, where site specific criteria (listed in section 7-20-80) are met, but to date, this criteria has never been met.

There are many other changes in the new Code which will affect Pitkin County property owners and prospective buyers. Those mentioned are the key changes, and they may raise the price of new construction, renovation and development accordingly. Pitkin County is known for some of the most stringent and precedent setting land use policies in the country and an entire industry of professionals from attorneys, land planners, builders and developers works daily at forging through the complex, and at times subjective, nuances of the Land Use Code.

Your real estate broker is *the* gatekeeper towards better understanding the impact these changes will have on the value of your property or of a potential property you may be considering purchasing. To maximize that value, or to create new value, make sure you choose a professional whose credibility and peer respect is based on a thorough understanding of the opportunities and limitations that the new land use code present.

Tim George Estin - I learned to ski before I could walk, went to elementary school in Aspen, and was a founding director of the Tenth Mountain Hut & Trail System* between Aspen and Vail with one of Aspen's legends, and my good friend and mentor, Fritz Benedict. I love living and working here and sharing that excitement with others. I've bought, redeveloped and sold Aspen properties for myself a number of times, and it's personally very rewarding taking clients through that journey.

After going away to school and earning an MBA, I worked in mountain resort development consulting (Sno-Engineering, Inc./Aspen) on major US and Canadian projects and then managed national advertising accounts for Timberland, Boston Whaler, Apollo Computer (acquired by Sun Microsystems) amongst others.



At present, I'm a member of the Pitkin County Planning and Zoning Commission/Technical Advisory Committee advising the P&Z and Pitkin County Board of Commissioners. I also serve as the Aspen Board of Realtors liaison for the extensive 2006 Pitkin County Land Use Code Rewrite to be completed in the spring 2006. This involves communicating policy, political issues, code changes, and their consequences to the realtor community and, in turn, to buyers and sellers. There are significant ramifications to all existing and potential property owners in Pitkin County with this Code Rewrite as the last major changes took place in 1992.

The natural beauty and quality of life here is our economic base, not to mention spiritual center. To the extent Aspen is able to preserve these qualities, to control its growth and to offer pre-eminent cultural, intellectual and sports events, Aspen will continue to differentiate itself from the rest of the destination resort world. In that sense, your investment in Aspen should not only be protected, but enhanced in future years.

My experience and familiarity with Aspen's land use/development policies, its cultural history, its real estate market and the context within which all these factors overlap, I believe make me a uniquely valuable resource and broker.

In my non-work hours, I participate in The Buddy Program and volunteer for the International Design Conference/Aspen and the Aspen Institute Ideas Festival.

I have a reputation of approachability, creativity, hard/smart work ethic and loyalty. I am scrupulous and believe wholly that "the reward of a thing well done is to have done it" (Emerson). My webpage – www.EstinAspen.com – will continue to be updated regularly. If you and your family are looking for an unparalleled degree of Aspen/Roaring Fork real estate information, discretion, service and results, I hope you'll give me a call or email. Thanks. Tim

*One of the great outcomes of being involved with the beginning of the Tenth Mountain Hut and Trail system was the opportunity for my family to come together to build the Peter Estin Hut in memory of my Dad. He was a former FIS racer and Dartmouth ski team captain, Director of the Ski Schools at Portillo, Chile and Sugarbush, Vt. and a New Yorker magazine cartoonist. In the early 60's, he wrote, "Ski the American Way" considered a ski teaching classic. (See: www.huts.org)

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