

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY COLORADO, AMENDING THE PITKIN COUNTY ASSET PLAN BY ADDING SECTION 3.12.05 AND AMENDING SECTIONS 1.65(B),(C) AND 1.66.**

**Ordinance No. 013 2007**

**RECITALS**

1. Whereas, § 30-35-301, C.R.S. authorizes Home Rule counties to make and publish ordinances to discharge the powers conferred upon such counties by law. Pitkin County is a Home Rule County.
2. Whereas, § 30-15-401(1)(h), C.R.S. vests the County with the authority to control and regulate the movement and parking of vehicles and motor vehicles on public property.
3. Whereas, § 30-15-402(1), C.R.S. specifies that a person who violates a County ordinance commits a class 2 petty offense or in the case of traffic offenses, commits a traffic infraction. That section further provides that if authorized by County ordinance, the Penalty Assessment procedure set forth in section § 16-2-201, C.R.S. may be followed in enforcing such ordinances.
4. Whereas, § 42-4-1204, C.R.S. prohibits stopping, standing or parking in specified areas, and specifies violation of such as a Class B Traffic Infraction.
5. Whereas, § 42-4-1701(4), C.R.S. specifies the penalty for parking violations as \$15.
6. Whereas, § 42-4-1803(2), C.R.S. authorizes agency employees, with the approval of the local law enforcement agency, to move vehicles standing upon any portion of the highway right of way that are obstructing traffic or highway maintenance.
7. Whereas, § 30-15-402.5(1), C.R.S. vests personnel designated by ordinance duly adopted to enforce County ordinances to issue citations or summonses and complaints enforcing County ordinances without regard to certification requirements of Title 24, C.R.S.
8. Whereas, Pitkin County and the Colorado Department of Transportation jointly own the Buttermilk Park and Ride lot located at the intersection of State Highway 82 and Owl Creek Road.
9. Whereas, the purpose of this ordinance is to 1) establish the management criteria for the Buttermilk Park and Ride lot; and 2) update the enforcement provisions of the Pitkin County Asset Management Plan.

**NOW THEREFORE BE IT ORDAINED** by the Board of County Commissioners of Pitkin County, Colorado that

- 1) The Pitkin County Asset Management Plan is hereby amended to insert a new section 3.12.05 to address the Buttermilk Park and Ride Facility as set forth below; and
- 2) Subsections 1.65(B)&(C), and Section 1.66 of the Pitkin County Asset Management Plan are hereby repealed; Sections 1.65(B) and 1.66 are re-enacted as set forth below.

**New Section 3.12.05:**

**3.12.05 BUTTERMILK PARK AND RIDE FACILITY**

The Buttermilk Park and Ride Facility is jointly owned by Pitkin County and the State of Colorado and is located at the intersection of State Highway 82 and Owl Creek Road. The Facility lots that run along Owl Creek Road to West Buttermilk Road are bisected by the entrance road into Buttermilk Ski area and are delineated with large boulders; regulatory parking signs also define the parking areas. The lots shall be used for two purposes: (1) commuter and other parking that promotes mass-transit, carpooling, and other activities that reduce traffic congestion on Highway 82; and (2) recreational-use parking for Pitkin County trails and related recreational facilities. All other uses are prohibited, including overnight parking. Permits for certain temporary uses that relate to minimizing congestion on the Highway 82 corridor, or that present temporary extraordinary circumstances that would inefficiently burden roads and other public facilities if not addressed at the Buttermilk lots, may be available upon application to Pitkin County Public Works.

Parking by persons who utilize the Buttermilk Park and Ride Facility for transportation to Aspen Mountain, Aspen Highlands, or Snowmass Ski Areas shall be permitted.

Pitkin County and the State of Colorado shall share maintenance responsibilities including lot grading as needed. Snow removal responsibility shall be the responsibility of Pitkin County and may be contracted out as appropriate. Pitkin County shall install and maintain signage.

**Section 1.65(B) Penalty and 1.65(C) Criminal Enforcement**

**These subsections shall be repealed and re-enacted in subsection 1.65(B) as follows:**

**1.65 B. VIOLATIONS, PENALTY**

1) Whenever in any section of this Asset Management Plan the doing of any act is required, prohibited, or declared to be unlawful, each violation of any such provision shall be a Class 2 Petty Offense with a maximum fine not to exceed \$1,000 and/or imprisonment for a period not to exceed 90 days or the maximum allowable by State law, as amended. Provided, however, that traffic infractions shall be addressed as provided in this section. The Director of Public Works or his/her authorized designee, the Pitkin County Code Enforcement Officer, or any Law Enforcement officer shall be authorized to serve either a Summons and Complaint or Penalty Assessment, as specified in this Section on any person who violates the provisions of this Asset Management Plan.

2) a. The following acts shall be subject to Penalty Assessment:

- 1)- Parking on any County Road or its related Right of Way without a permit, as set forth in §§ 1.12.01(J), 1.13.01(L), 1.14.01(L) and 1.15.01(M).
- 2) -Depositing, plowing, pushing or otherwise placing snow upon or across any County Road or its related Right of Way.
- 3)- Violating Park and Ride Facility use regulations.

b. The Penalty Assessment schedule for violations other than traffic infractions shall be:

- First Offense: \$100.00
- Second Offense: \$250.00
- Third and additional offenses: \$1,000.00 or maximum then allowed by law.

c. The Penalty Assessment schedule for traffic infractions including but not limited to parking, blocking or impeding maintenance in the County Right of Way and any Park and Ride Facility shall be:

- First and subsequent Offenses - \$15

3) a. Violations of the Asset Plan not addressed by § 1.65(B)(2) shall be addressed by Summons and Complaint to appear in Pitkin County Court, including but not limited to:

- Engaging in road maintenance of any County road and its related Right of Way except by prior written agreement with Pitkin County.
- Violation of permit requirements of this Plan.

b. Violations addressed by Summons and Complaint shall be subject to a minimum penalty of \$500 and maximum penalty of \$1,000, or the maximum then allowable by State law, as amended.

4) Summonses and Complaints shall be referred to the District Attorney for prosecution in Pitkin County Court. Non payment of a Penalty Assessment shall result in prosecution of the Penalty Assessment as a Summons and Complaint pursuant to § 16-2-201, C.R.S., as amended. In such case the penalty schedule set forth in § 1.65(B)(2)(b) shall be followed.

5) Any Person who aids, assists or abets any other Person in committing a violation of these regulations shall be subject to the penalties specified in § 1.65(B) dependent upon on whether the person aided or assisted is subject to Penalty Assessment or Summons and Complaint.

**Section 1.66 Other Enforcement procedures**

**This section shall be repealed and re-enacted as follows:**

**1.66 VIOLATIONS, CIVIL ENFORCEMENT**

- A. Notice of Violation In addition to utilizing the enforcement procedures authorized by § 1.65, the Director of Public Works or his/her designee; the Pitkin County Code Enforcement Officer; or the Director of Open Space and Trails or his/her designee may deliver a Notice of Violation (NOV) to any person who violates this Asset Management Plan. The NOV shall specify the violation, and may require that the violator either cease and desist immediately from all acts or omissions relating to the violation, or correct the violation within a specified time not to exceed 90 days. Failure to comply with the terms of an NOV shall result in enforcement pursuant to § 1.65. Issuance of a Notice of Violation shall not be deemed a condition precedent to enforcement pursuant to the procedures set forth in § 1.65, nor shall it preclude later enforcement action pursuant to § 1.65.
- B. Civil Enforcement In the event of any act or omission that violates any section of this AMP, the County Attorney, in addition to other remedies provided by law or specified herein, may institute an injunction, mandamus, abatement, or other appropriate civil action or proceeding to prevent, enjoin, or abate any unlawful activity, or to remove any improvements or construction resulting from such unlawful activity. In the event that such unlawful activity has damaged any county property, the violator shall be liable for any damage to county property resulting from any such unlawful activity, including, but not limited to, compensation for staff time and for use of county equipment or contracted services to repair such damage. Any civil action or proceeding may include a claim to recover all such money damages in addition to any and all claims for injunctive or other equitable relief.
- C. Withdrawing or Withholding Permits In the event that the Public Works Director or designee, Code Enforcement Officer, or Open Space and Trails Director or designee has personal knowledge of any violation of this AMP, any Public-Works issued permit may be withdrawn after the violator is provided notice and an opportunity for hearing before the Board of County Commissioners. If the violation involves activity under a Pitkin County Community Development building permit, the building permit may also be withdrawn after consultation with Community Development staff and after the violator is provided notice and an opportunity for hearing before the Board of County Commissioners. No further permits or approvals from the County shall be issued for any property generating a violation until the violation is brought into compliance with the standards of this AMP.
- D. Vehicle Removal Any vehicle blocking traffic or impeding road maintenance on a County road or right of way may be moved pursuant to § 42-4-1803, C.R.S. The procedure for removing such vehicles shall be as follows:
- 1) Public Works staff shall provide the vehicle's description, license plate, location and circumstance to the Pitkin County Sheriff's Office and request that the Sheriff's Office have the vehicle removed.
  - 2) If the Pitkin County Sheriff's Office informs Public Works that it is unavailable to have a vehicle removed in a reasonable amount of time, Public

Works staff may request approval from the Sheriff's Office for Public Works staff to remove the vehicle.

- a) If a vehicle is to be removed by Public Works staff with Sheriff's Office approval, Public Works shall call dispatch and request a tow. Public Works-initiated tows shall be taken to the Sheriff's impound lot and Public Works staff shall within a reasonable time notify the Sheriff's Office of the details of the tow, including vehicle description, location and license plate number.
  - b) If a vehicle can be simply moved to a nearby location rather than to the impound lot to resolve the problem posed by the vehicle, Public Works staff shall have discretion to make that decision after following the same procedures set forth above. Nothing herein shall obligate Public Works, the Sheriff, or any other entity to relocate a vehicle rather than removing it.
- 3) When Public Works initiates a vehicle removal, Staff shall when practicable first make a reasonable effort to inform the vehicle's owner of the impending vehicle removal. The circumstances—including without limitation the location of the vehicle, the level of service of the road or asset in question, the danger to the public, and the disruption to maintenance and provision of other public services—shall inform a sound exercise of discretion as to what a reasonable effort is and how long Public Works must wait before initiating the removal of a vehicle. In some circumstances it may be necessary to immediately remove a vehicle without first contacting the owner.
  - 4) In circumstances where a vehicle is approved by the Sheriff's Office to be towed to the Sheriff's impound lot, the Sheriff's Office is responsible for accomplishing the necessary logistics such as vehicle logs and vehicle release to owners. Public Works staff shall assist as requested by the Sheriff's Office.

**INTRODUCED, FIRST READ, AND SET FOR PUBLIC HEARING  
ON - July 11, 2007**

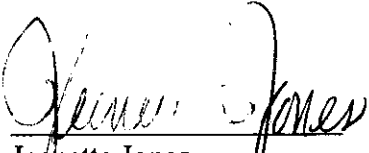
**NOTICE OF PUBLIC HEARING AND THE FULL ORDINANCE PUBLISHED IN  
THE ASPEN TIMES WEEKLY ON THE – July 15, 2007**


**ADOPTED AFTER SECOND READING AND PUBLIC HEARING HELD ON –  
July 25, 2007**

**PUBLISHED BY TITLE AND SHORT SUMMARY, AFTER ADOPTION, IN THE  
ASPEN TIMES WEEKLY ON THE – August 5, 2007**

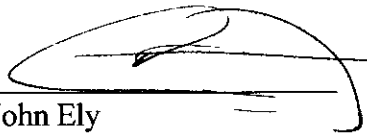
**ATTEST:**


**BOARD OF COUNTY COMMISSIONERS  
OF PITKIN COUNTY, COLORADO**

  
\_\_\_\_\_  
Jeanette Jones  
Deputy Clerk

  
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Michael Owsley, Chair  
Date: 7/25/07

**APPROVED AS TO FORM**

  
\_\_\_\_\_  
John Ely  
County Attorney

  
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Hilary Fletcher  
County Manager