

Space saver: New home construction won't be quite the same under Pitkin County's rewritten land-use code.



How Big Is Too Big?

THE NEW COUNTY LAND-USE CODE BRINGS MORE RESTRICTIONS ON BUILDING BIG —BETTER BRUSH UP ON YOUR LEGAL LINGO

BY SETH MASIA

With significant changes to the Pitkin County land-use code that will put a standard cap on home sizes countywide as well as alter the process for exceeding those limitations, county commissioners hope to preserve the valley's rural character.

But, first, a bit of background. Previously, house sizes in Pitkin County's urban growth boundary were limited mainly by permissible floor-area-to-lot ratios, though projects with more than 15,000 square feet of livable space had to undergo a special review. In addition, exemptions were given for most houses so that up to 4,000 square feet of subgrade space and 750 feet of garage space were not counted in the floor-area total. If you wanted to build a new house in a rural-designated area, on the other hand, Pitkin

County restricted the size to 5,750 square feet of habitable space, under a revision made to the code in 2000. If you needed a larger place you could purchase one or more transferable development rights (TDRs) from property owners who gave up their entitlement to develop part of their land in exchange for selling that right to someone else to use elsewhere in the county. Or you could apply for additional space, competing for it with other ambitious builders, through the county's growth-management-quota system, which puts a ceiling on annual total square footage of new construction in a given neighborhood.

Now, according to the revision—the first complete rewrite of the code since 1994—the 5,750-square-foot limit will be enacted countywide. And

the exemptions for subgrade and garage space will no longer be given. So it will be more difficult, and more expensive, to build a monster home on Red Mountain, for example, which is inside the urban growth boundary. You can still apply for more space through the growth-management system or purchase a transferable development right (though in rural areas, you can no longer use a TDR for a brand-new development right). In another change, you can't ever go over 15,000 square feet of floor area, nowhere, no how. So a place like the one that belongs to the Saudi ambassador Prince Bandar—at 55,000 square feet the county's biggest house—is a thing of the past.

Another amendment to the code involves the exchange value of transferable development rights. Previously, a TDR was good for 2,500 square feet of additional floor area or 5,750 square feet for a new development right; now all TDRs are worth 2,500 feet, regardless of how they are used. But the pool of potential land for TDRs has been expanded, by allowing anyone with 160 or more acres—not just land owners whose property was designated rural and remote, as in the past—to sell development rights. The aim is to shift more future development closer to town while conserving more open space in the county's rural parts. The growth-management quotas have not changed, though TDRs will likely remain the more popular option for increasing home size.

"I'm anticipating that most of the people who wish to exceed [the size limit] will purchase TDRs," says Lance Clarke, assistant director at the county planning office.

An increase in river and stream setbacks under the rewritten code, from 20 feet to 50-150 feet, is of

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concern to some. According to Clarke, the increase was made to maintain riparian habitats, prevent stream-bank erosion, and preserve water quality. "Twenty feet was ridiculously out of touch," he says. "No one had 20 feet [setbacks] out of anyone we've contacted in the country. It wasn't up to date with modern stream preservation."

Shellie Roy, a former county commissioner and now a broker with Frias Properties, estimates that about 1,000 waterfront homes in the county will be nonconforming according to the new code. "The beauty is if you buy one of those homes, you'll be buying something that you can never get again," she notes.

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The 15,000-foot size limit, though it initially made headlines, actually won't affect a lot of people. Only about one very large house is built each year. But some in the county don't want to take chances.

"The fact that there haven't been a lot doesn't mean there won't be more," says county commissioner Mick Ireland. "This country is seeing a huge redistribution of wealth in favor of the top 1 percent, and that's what's been driving the real estate market here. We don't want to see our community developed with huge chateaux. There's a point at which something is just excessive and inconsistent with the community's philosophy."

Among Aspen Realtors, the consensus is that the code revisions will likely, at least incrementally, increase housing prices as well as drive up the value of TDRs (at press time, the going rate per TDR was \$225,000-\$250,000). And, according to one Realtor, a rush of property owners and developers tried to get their permitting in before the code's final approval, so that they could build a subgrade or garage space while it's still considered an exemption.

But it's far from doom and gloom in real-estate circles. The new code "puts a greater emphasis on preserving the rural character of Pitkin County," says Tim Estin,

The biggest impact, perhaps, may be on potential "teardowns." With the 5,750 square feet limit in place, which now includes subgrade and garage space within

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a broker with Mason and Morse and the liaison between the Aspen Board of Realtors and the code rewrite. "Most Realtors realize that the beauty of Pitkin County is our lifeblood, both socially and economically. To the extent that we can protect that, we protect all of us in the community."

And of the two-year process of rewriting the code, Estin says, "I was personally very impressed by the balanced nature of it. It was a well-considered process, and there was absolute inclusion of public comment where it made sense."

that total, new owners will likely have to purchase TDRs or compete within the growth-management quota even to rebuild a home that's the same size as the old. That concerns brokers like Roy. "You'll be in excellent shape in the real-estate market if you buy or sell a house that was built to the maximum of its lot size or buy a lot with no house," she says. "For older, preexisting homes, time will tell us how it will shape up. It's never been more important to work with a Realtor who really understands the land-use code." ■

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