

DISTRICT COURT, MESA COUNTY, COLORADO		DATE FILED June 15, 2026 11:26 AM CASE NUMBER: 2026CV30298
Court Address: MESA COUNTY JUSTICE CENTER, 125 NORTH SPRUCE STREET, GRAND JUNCTION, CO, 81501		
Plaintiff(s) MESA COUNTY BOARD OF COMMISSIONERS v. Defendant(s) CHERYL NORTON et al.		△ COURT USE ONLY △
		Case Number: 2026CV30298 Division: 11 Courtroom:
Order: Motion for Temporary Restraining Order and Preliminary Injunction		

The motion/proposed order attached hereto: DENIED IN PART.

This matter comes before the Court on the motion of the Mesa County Board of Commissioners (the "Board") for an ex parte temporary restraining order. The motion is DENIED.

The Board, noting that it is permitted to seek an injunction pursuant to section 30-28-124, C.R.S., claims that the rules ordinarily attendant to temporary restraining orders under Rule 65 are not applicable here. However, unlike the authorities cited by the Board, section 30-24-124 does not provide specific procedures for injunctions, much less provide a clear legislative intent to permit a temporary restraining order without notice to the opposing party and without satisfying the standards set forth in Rule 65.

The Board's motion fails to identify any immediate and irreparable injury, loss, or damage that would result in the relatively short time period necessary for appropriate notice and a hearing. See C.R.C.P. 65(b). Indeed, given the amount of time that the alleged noncompliance has been permitted to occur without a request for injunction, the Court discerns no such exigency. Accordingly, the request for an ex parte temporary restraining order is DENIED.

The Board shall serve its motion on the Defendants and contact the Division for a hearing date.

Issue Date: 6/15/2026



JEREMY L CHAFFIN
District Court Judge

DISTRICT COURT, MESA COUNTY, COLORADO Mesa County Justice Center 125 N. Spruce Street Grand Junction, CO 81501	▲ COURT USE ONLY ▲
Plaintiff: THE BOARD OF COUNTY COMMISSIONERS OF MESA COUNTY, COLORADO v. Defendants: CHERYL NORTON, SCOTT NORTON, and CHARLES HOGE	
<i>Attorneys for the Board of County Commissioners of Mesa County, Colorado:</i> Todd M. Starr, #27641 County Attorney Patrick L. Barker, #42962 Assistant County Attorney P.O. Box 20,000, Dept. 5004 Grand Junction, CO 81502 Phone: (970) 244-1612 E-mail: todd.starr@mesacounty.us patrick.barker@mesacounty.us	Case No. 2026CV____ Div: Ctrm.:
MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION	

Plaintiff, the Board of County Commissioners of Mesa County, Colorado (“Board”), through the Mesa County Attorney’s Office, hereby moves pursuant to section 30-28-124(2), C.R.S., for a temporary restraining order and preliminary injunction under the Claim for Relief stated in the Board’s Complaint for Declaratory and Injunctive Relief (“Complaint”) filed contemporaneously herewith. The Board states as follows:

C.R.C.P. 121, Section 1-15(8) Certification: Undersigned counsel has provided known counsel for Defendants Cheryl Norton and Scott Norton a copy of this Motion and has conferred with counsel regarding the Motion. In addition, undersigned counsel has emailed Defendants a copy of this Motion via a known email address for Defendants Cheryl Norton and Scott Norton and a suspected email address for Defendant Charles Hoge. In the email and conferral, the

undersigned has advised that the Board seeks to appear before the Court as soon as possible in order to obtain a temporary restraining order. The Board will also send a copy by expedited mail to a mailing address identified Defendant Charles Hoge. Any Notice of Hearing regarding a temporary restraining order hearing, if any, will be delivered to Defendants and counsel in the same fashion.

REQUEST FOR IMMEDIATE DISPOSITION

Given the time-sensitive nature of this Motion and the exigent circumstances as framed by the Complaint and this Motion, the Board respectfully requests that the Court immediately grant this Motion *ex parte* as permitted by C.R.C.P. 65(b) and C.R.C.P. 121 § 1-15(4). The Court clerk has been notified of the immediate disposition request.

INTRODUCTION

1. Defendants are operating a commercial minor entertainment event venue on the Property, as defined in the Complaint. Such operation requires compliance with requirements of the *Mesa County Land Development Code* (“LDC”), as further alleged in the Complaint. This includes obtaining a valid conditional use permit for such operation, which validity is contingent upon satisfaction of all regulatory matters triggered by proposed implementation of minor entertainment event venue use of the Property. Currently, Defendants have failed to obtain site plan approval in satisfaction of LDC requirements for validity of a provisional conditional use permit they have obtained for operation of a minor entertainment event venue at the Property and lawful operation of the venue.

2. Defendants have continued their unlawful venue operations at the Property after:

a) Mesa County (“County”) repeatedly advised them over the past year-plus that site plan

approval is required as a condition of operating a minor entertainment event venue at the Property, b) County issued multiple demand letters, formal notices of violation, and cease and desist orders regarding the Defendants' non-compliance with the LDC, and c) Defendants Cheryl Norton and Scott Norton agreed on December 29, 2025, just before a "New Year's Eve Comedy Show & BBQ Dinner" impermissibly scheduled for the Property, to obtain site plan approval as a condition of operating the event venue.

3. Indeed, notwithstanding these enforcement actions and the Defendants Cheryl Norton's and Scott Norton's agreement, Defendants, upon information and belief formed after Defendants' hosting of the May 17, 2026 and June 6, 2026 entertainment events as alleged in the Complaint, continue as of the date of this Motion to actively plan and schedule entertainment events at the Property.

4. This Court should immediately stop Defendants' unlawful conduct.

FACTS

5. The facts pertinent to this Motion are taken from the Complaint and are supported by the attached Declaration of Phil Stratton, Supervisor of Mesa County Code Compliance Services.

6. Defendants Cheryl Norton, Scott Norton, and Charles Hoge are the owners of record of the Property, as defined in the Complaint, and were applicants to the Mesa County Planning Division for a conditional use permit to operate a minor entertainment event venue at the Property. Complaint, ¶¶9 - 10.

7. Throughout the conditional use permit application review process, County

Planning Division officials repeatedly advised Defendant Cheryl Norton that the proposed venue use constituted a change in occupancy and use that triggered County Building Code – Mesa County Ordinance 008(D) – and LDC requirements, specifically: a) obtaining certificates of occupancy for structures used as the venue, and making improvements to the structure as necessary to obtain the same; and b) site plan approval. Complaint, ¶¶16, 23 - 50.

5. On May 27, 2025, in reliance on Defendants’ commitments during the permit application review to resolve County Building Code issues arising due to the proposed change in occupancy of the Property, and to obtain required site plan approval, the County provisionally approved Defendants’ conditional use permit application. Complaint, ¶¶29 - 30, 49.

6. Despite Defendants having not obtained the required certificate of occupancy or site plan approval, Defendants operated the Property as a commercial entertainment event venue on multiple occasions during 2025, including hosting events on May 31, 2025, September 6, 2025, and December 3, 2025. Complaint, ¶¶31 - 39.

7. Defendants attempted to evade regulatory requirements by claiming that certain of the 2025 events were hosted by “short-term rental guests” rather than by Defendants. Complaint, ¶31, Declaration P. Stratton, ¶5.

8. On October 16, 2025, the County formally advised Defendants in writing of their regulatory non-compliance and the requirement to obtain site plan approval in order to finalize their conditional use permit and bring the minor entertainment event venue use of the Property into compliance with the LDC. Defendants did not respond or take corrective action. Complaint, ¶¶35 - 38.

9. In December 2025, Defendants publicly advertised multiple future entertainment

events at the Property, including a "Holiday Supper Club" and a "New Year's Eve Comedy Show & BBQ Dinner" scheduled for December 31, 2025. Complaint, ¶¶41 - 42; Declaration P. Stratton, ¶13.

10. On December 15, 2025, the County formally advised Defendants that their hosting of the December 31, 2025, event was impermissible given their failure to satisfy regulatory requirements of obtaining site plan approval and a certificate of occupancy, and that the County would seek injunctive relief if Defendants did not provide proof of cancellation by December 19, 2025. Defendants did not respond. Complaint, ¶¶44 - 45; Declaration P. Stratton, ¶15.

11. Subsequently, the Mesa County Code Compliance Services issued a Notice of Violation ordering Defendants to cease use of the Property as a minor entertainment event venue by December 30, 2025. Complaint, ¶46; Declaration P. Stratton, ¶16.

12. Additionally, due to Defendants' apparent refusal to cancel the impermissible events scheduled for the Property, on December 24, 2025, the County's Chief Building Official mailed a cease and desist order to Defendants, and further posted a cease and desist order on the driveway gate at the Property. Complaint, ¶47.

13. In response to these notices and the County's intent to seek an injunction against Defendants' continued violations, Defendants Cheryl Norton and Scott Norton agreed on December 29, 2025, just before the planned "New Year's Eve Comedy Show & BBQ Dinner," to operate that event non-commercially and to obtain site plan approval as a condition of operation under the conditional use permit. Complaint, ¶48; Declaration P. Stratton, ¶17.

14. In accordance with their agreement memorialized through the *Agreement*

Regarding Limited Event and Code Compliance, which Agreement is attached to the Complaint as Exhibit A, Defendants Cheryl Norton and Scott Norton took all steps to obtain a certificate of occupancy and cure the Property's non-compliance with the County's Building Code. These actions resulted in the County issuing a certificate of occupancy for event-occupancy of relevant improvements on the Property on May 13, 2026. Complaint, ¶51.

15. Despite County Planning Division advisements, County Code Compliance Services and County Attorney Office warnings, County cease and desist and other orders, County threats of litigation, and the agreement by Defendants Cheryl Norton and Scott Norton to obtain site plan approval and avoid litigation, Defendants continue to dispute that exercise of the entertainment event venue use of the Property requires an approved site plan. The most apparent forms of dispute are the entertainment events hosted at the Property on May 17, 2026 and June 6, 2026. Complaint, ¶¶54 - 55; Declaration P. Stratton, ¶21.

16. The Defendants have not begun the site plan review process, nor have they communicated with the County about beginning the process. Complaint, ¶56.

17. Upon belief informed by Defendants' past willful violation of the Building Code and the LDC going back over one year now, and Defendants not fulfilling the commitment to obtain site plan approval agreed to through the partially-performed agreement by Defendants Cheryl Norton and Scott Norton, Defendants will continue to willfully violate the LDC unless enjoined from doing so.

18. Based on these facts, Defendants immediately should be enjoined from operating their unlawful entertainment event venue pending final determination of this action.

**COUNTY IS ENTITLED TO A TEMPORARY RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

A. The Defendants Are Violating or Will Violate the LDC and Multiple County Orders

19. LDC Section 4.16.A requires site plan approval for "any non-residential development" of a property subject to the LDC, including minor entertainment event venue use. Complaint, ¶21.

20. An approved site plan is required for minor entertainment event venue use of the Property independently of and in addition to any conditional use permit for such use.

21. Defendants are operating a commercial minor entertainment event venue on the Property without obtaining required site plan approval for the venue use. Declaration P. Stratton, ¶20.

B. The Statutory Scheme Entitles the County to Injunctive Relief

22. Section 30-28-124(2), C.R.S., provides with respect to Mesa County's enforcement of the LDC: "In case . . . any land is . . . used or is proposed to be used, in violation of any regulation or provision of any zoning resolution, or amendment thereto, enacted or adopted by any board of county commissioners . . . the county attorney of the county in which such . . . land is situated, in addition to other remedies provided by law, may institute an injunction, mandamus, abatement or any other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful . . . use."

23. Where, as here, injunctive relief is sought pursuant to a statutory scheme, the statutory scheme controls over the more general application of C.R.C.P. 65. *See Kourlis v. Dist.*

Court, El Paso Cnty, 930 P.2d at 1334-35 (district court erred in applying C.R.C.P. 65 and six-part test of *Rathke v. MacFarlane*, 648 P.2d 648 (Colo. 1982), to determine whether preliminary injunction should issue against unlawful use under statutory scheme); *State ex rel. Salazar v. Cash Now Store, Inc.*, 31 P.3d 161 (Colo. 2001) (district court erred in applying C.R.C.P. 65's standards in denying motion for preliminary injunction sought under statutory scheme); *People ex rel. Rein v. Meagher*, 465 P.3d 554, 563 (Colo. 2020) (no error in the water court's determination that neither C.R.C.P. 65 nor the *Rathke* factors apply in granting injunction).

24. Because injunctive relief is “an essential feature of the enforcement design” of Colorado county zoning and land use codes, such as the LDC, pursuant to section 30-28-124(2), C.R.S., the Board need not show irreparable injury, the inadequacy of a legal remedy, that the equities favor an injunction, the public's interest, or other *Rathke* elements. *See Kourlis*, 930 P.2d at 1334, 1336-37; *see also Lloyd A. Fry Roofing Co. v. Dep't of Health Air Pollution Variance Bd.*, 553 P.2d 800, 808 (Colo. 1976) (because suit to enjoin violations of state statute is in public interest, public agency need not show irreparable injury).

C. Immediate Relief Is Necessary

25. Defendants have demonstrated twice in over the last two weeks that they will continue to host entertainment events at the Property despite such actions being unlawful due to lack of required site plan approval, and despite the County's numerous advisements, demand letters, notices of violation, orders, and the December 29, 2025 agreement by Defendants Cheryl Norton and Scott Norton to obtain site plan approval as a condition of future operations.

26. Defendants' continued operation of an unlawful commercial entertainment venue creates immediate risks to public health, safety, and welfare. Complaint, ¶12.

27. To prevent imminent harm to public health, safety, and welfare, to halt Defendants' ongoing violations of the LDC, and to give effect to the County's cease and desist orders and hold Defendants Cheryl Norton and Scott Norton to their agreement to comply, Defendants immediately should be enjoined from operating any entertainment event venue on the Property without first coming into regulatory compliance.

28. C.R.C.P. 65(c) authorizes the Court to waive the security requirement where appropriate. Waiver is appropriate here. This action is brought by a governmental entity exercising its statutory enforcement authority under section 30-28-124(2), C.R.S., in the public interest. The Board has no personal financial stake in this litigation of the kind the security requirement is designed to protect against, and Defendants face no risk of wrongful restraint: the LDC unambiguously requires site plan approval for the venue use, Defendants have acknowledged as much through the December 29, 2025 agreement, and the County has provided repeated notice of the requirement over more than a year. Requiring the Board to post a bond as a condition of enforcing the LDC would effectively condition the County's statutory enforcement authority on the expenditure of public funds. This is a result the legislature could not have intended in enacting section 30-28-124(2).

CONCLUSION

For the reasons stated, the Board respectfully requests that the Court:

- A. Grant this motion in all respects;
- B. Pending the final determination of this action, temporarily and preliminarily enjoin Cheryl Norton, Scott Norton, and Charles Hoge, and their agents, employees, lessees, tenants, successors, and assigns from:

1. Operating, hosting, advertising, scheduling, or conducting any minor entertainment events or entertainment event venue activities on the Property;
2. Entering into any new contracts or arrangements for entertainment events on the Property;
3. Permitting or facilitating use of the Property for entertainment events by purported “short-term rental guests” or any other third parties as a means of circumventing LDC requirements;
4. Removing, altering, or defacing any orders which may be posted at the Property by County or its agents; and
5. Otherwise violating the LDC or County orders;

C. Require Defendants to:

1. Immediately cancel the all entertainment events scheduled for the Property;
2. Notify all persons with whom Defendants have contracted or communicated regarding future events that the venue is not lawfully operational and all events are canceled;
3. Remove all advertising, marketing materials, website content, social media postings, booking platform listings, and other public-facing content promoting the Property as an entertainment event venue; and
4. Provide to the Board, within seven (7) days of the date of this Court's order, a complete list of all events scheduled or contracted for the Property,

showing as to each event: the date, the contracting party, contact information, and whether the event has been canceled and notice provided;

D. Award the Board all such further relief as the Court deems just.

Respectfully submitted this 11th day of June, 2026.

OFFICE OF THE COUNTY ATTORNEY,
MESA COUNTY, COLORADO

/s/ Todd M. Starr

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