



Teller County Community Development Department

800 Research Dr., Suite 100-B ■ Woodland Park, CO 80863 ■ (719) 687-3048

July 3, 2025

Zachary & Virginia Loop
78 Moss Rock Ct
Divide, CO 80814

RE: Unpermitted Commercial Greenhouse
78 Moss Rock Ct, Divide, CO 80814; Zoning District – R-1
Sent via Certified US Mail, US Mail, and Electronic Mail

Mr. and Mrs. Loop,

I have received your email with your appeal of the Determination of Unpermitted Commercial Greenhouse issued by Justin McBryde, Planner II for Teller County, on June 17, 2025. After reviewing your email and the original determination of Justin McBryde, this correspondence, in part, affirms Mr. McBryde's determination and provides clarification and a correction to that letter regarding appeal rights.

Following a site inspection, a review of documentation provided by you, and staff consultations held on May 28, 2025 and June 6, 2025, it has been determined that the greenhouse structure situated on your property is in violation of the Teller County Land Use Regulations (LUR). The structure constitutes an unpermitted commercial land use activity within the R-1 Zoning District. This correspondence serves to document that I have affirmed this determination.

Determination Summary

1. Zoning Violation

Your property is located in the Residential One (R-1) zoning district. Pursuant to Chapter 2, Section 2.6.3 of the Teller County LUR, commercial greenhouses with retail components, customer visitation, or public access are not permitted in this zone. In our unscheduled meeting when you dropped by my office on May 28, 2025 you told me that you planned to serve 127 families with produce from your greenhouse. Additionally, your social media posts make the same or similar claims which have led to my determination that this greenhouse is intended to be used for commercial agricultural purposes. Your use of the structure for the distribution of produce to the public constitutes a commercial operation, which is not a permitted use in the R-1 Zone District. This determination is affirmed. In addition to these violations, agriculture is not a permitted use within the R-1 Zone District and is therefore prohibited.

2. Noncompliance with Home Occupation Standards

LUR Section 8.3.O restricts home occupations to being incidental to the residential use of the property, prohibits significant traffic, and generally limits operations to within the principal structure. Further, this section of the LUR limits the square footage of the portion of your home used for the home occupation to 30% of the total square footage of your dwelling. The Teller County Assessor website shows your dwelling is 2,614 square feet. Your 2,856 square foot greenhouse far exceeds this 30% limitation. In fact, the square footage of your greenhouse exceeds the square footage of your dwelling. Your operation of a greenhouse with customer visits and sales does not qualify as a home occupation. This determination is affirmed.

3. **Agricultural Exemption Claim – Misapplied**

Section R105.2 of the Teller County Building Code provides an exemption for agricultural buildings only if *all* criteria are met:

- Used solely for agricultural purposes (likely met)
- Property must be classified as agricultural by the County Assessor (**not met**)
- Structure not used for residential storage (likely met)
- Structure must meet zoning setbacks (this requirement is met)

Your property is classified as **residential** by the Teller County Assessor. This classification disqualifies you from the agricultural exemption from building permits. Your **tax classification is distinct from your zoning designation**, which appears to have been misunderstood in your correspondence. Staff has clearly explained, both verbally and in writing, that your land's tax status governs your eligibility for a building permit exemption under this code. The zoning district of your property has no bearing on your eligibility for agricultural exemption from building permits. This determination is affirmed.

4. **Water Use Compliance**

Your domestic well is legally permitted for household use only. Your domestic well is not authorized for irrigation or commercial agriculture. Continued irrigation use from this well may require augmentation or an alternative legal water source, subject to determination by the Colorado Division of Water Resources. This determination is affirmed.

For the reasons stated above, I have determined that your commercial greenhouse does not meet the standards for permitting in Teller County. Therefore, your request to have a commercial greenhouse was administratively disapproved by Mr. McBryde pursuant to LUR Section 1.14.A. I affirm this determination.

Correction regarding appeal rights

In his letter of Determination of Unpermitted Greenhouse, Mr. McBryde stated that you may appeal his determination to the Teller County Board of Adjustment. After further review and consultation with the Teller County Attorney, you are **not** eligible to appeal these determinations to the Teller County Board of Adjustment based on C.R.S. § 30-28-118(1)(b) because you are currently in violation of both the TCLUR and the Teller County Building Code (TCBC), and these violations are subject to prosecution pursuant to C.R.S. § 30-28-124(1)(b). These Colorado statutes are set forth below for your information:

C.R.S. § 30-28-118(1)(b). No such appeal to the board of adjustment shall be allowed for building use violations that may be prosecuted pursuant to section 30-28-124(1)(b).

C.R.S. § 30-28-124(1)(b)(I). It is unlawful to use any building, structure, or land in violation of any regulation in, or of any provision of, any zoning resolution, or any amendment thereto, enacted or adopted by any board of county commissioners under the authority of this part 1. Any person, firm, or corporation violating any such regulation, provision, or amendment commits a civil infraction. Each day during which such illegal use of any building, structure, or land continues shall be deemed a separate offense.

Required Actions

- **Cease all commercial activity immediately related to the greenhouse operation.**
- **Remove the unpermitted illegal greenhouse.**
- **Resolve your well water usage with the Colorado Division of Water Resources if irrigation from your household use only well is intended.**

Informal Resolution

To date, the County has not commenced any legal actions against you for your violations. It is the strong preference of the County that this matter be resolved without the necessity of formal enforcement and legal action. Accordingly, you must correct the violations as stated above and contact me to discuss how you plan to resolve and remove the violations.

You should be aware that if you fail or refuse to correct the violations, the County could take formal legal action against you to correct the violations, including, but not limited to, issuance of a summons and complaint requiring you to appear in the County Court or District Court at a definite time and place to answer and defend the charges, civil monetary penalties, injunction, abatement, assessment of costs to abate or correct the illegal conditions, or any other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful use of the property. If such action is filed, be advised that pursuant to LUR §§ 1.15.B, you are responsible for all court costs and shall pay any reasonable attorney's fees which the Board of County Commissioners may incur in enforcing this provision. Note that each day that a violation continues is deemed to be a separate offense under C.R.S. §§ 30-28-124 and 30-28-124.5, and LUR §§ 1.15.B.2. Also, if civil monetary penalties are assessed by the court and are not paid, it may result in a lien being placed on the property on which the violation has been found to exist pursuant to C.R.S. §§ 30-28-124.5(1).

Please contact me to discuss the best way to resolve this informally.

Sincerely,



Daniel J. Swallow
Community Development Director/Planning Director

cc: Ross Herzog, County Administrator
Paul Hurcomb, County Attorney
Janine Snyder, Building Official
Cy Cushenberry, Code Enforcement Officer
Justin McBryde, Planner II
