

CHAPTER 4.13
SUBDIVISION DESIGN, IMPROVEMENTS AND DEDICATIONS

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CHAPTER 4.13
SUBDIVISION DESIGN, IMPROVEMENTS AND DEDICATIONS

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4.13.010 PURPOSE.

In order to further the purpose of this Title, it is the purpose of this Article to ensure that for all subdivisions and developments, except as provided otherwise in this Title:

- A. The developer provide, pay for and install or cause to be installed, on-site and off-site public improvements where needed. Such improvements shall include, but not be limited to: water distribution systems, storm drain structures, wastewater lines, pumps and appurtenant devices, curbs and gutters, street base course material and wearing course material, bridges, electrical transformers, street lights, underground communications systems and wiring, gas distribution systems, fire hydrants, fire alarms and other fire-control devices, street signs and traffic-control devices, and community facilities as the Town may determine; and
- B. Provisions are made for the preservation, replacement or installation of trees, shrubs, ground cover and vegetation, structures and provisions to stabilize soil and to prevent erosion, and culverts or other devices to enclose open ditches and inhibit access to them by children; and
- C. Reservations and dedications to the Town of lands or easements, or fees in lieu of dedications, are made where needed by the nature of the development for public purposes including but not limited to: utility easements and easements for drainage purposes, pedestrian easements, park land, and other community facilities; and
- D. Provisions are made for delayed or phased development if necessary to ensure that the Town or Special Districts can provide necessary and timely municipal services and facilities; and
- E. Provisions are made to ensure the completion of installation of curbs, gutters, sidewalks, street paving and other improvements and to ensure that dedications are made.

4.13.020 APPLICABILITY.

Except as otherwise provided in this Title, the requirements and provisions of this Chapter shall apply to every subdivision and development.

4.13.030 LAND SUBJECT TO NATURAL HAZARDS

Land subject to natural hazards such as flooding, including all land within the 100-year flood plain, shall not be developed or approved for development except in conformance with Chapter 4.15 Flood Damage Prevention, until plans, certified by a registered professional engineer, are submitted to and approved by the Town Engineer, the Planning Commission, and the Town Board which will prevent such conditions from endangering life, health and/or other property.

4.13.35.1 FIRE PROTECTION

A. Compliance With Applicable Codes

The subdivision shall comply with all provisions of the current fire code adopted by the Greater Eagle Fire Protection District, applicable building codes, and any other duly adopted code, statute, ordinance or standard relating to fire protection, unless enforceable, equivalent protection or mitigation efforts are undertaken by the developer as approved by the Greater Eagle Fire Protection District and the Town.

B. Wildland/Urban Inter-Mix Areas

Approved fire resistive construction and landscaping in accordance with the current fire code adopted by the Greater Eagle Fire Protection District and duly adopted Town building codes shall be required when wildland/urban inter-mix/interface areas within a subdivision.

C. Automatic Fire Protection Systems Required.

1. For any area within a subdivision which is more than three (3) driving miles from the nearest actual or to be constructed fire station, approved, built-in, automatic fire protection systems shall be installed and maintained in all subdivision improvements (occupancies).
2. In all areas within a subdivision which are more than five (5) driving miles from the nearest actual or to be constructed fire station, approved, built-in automatic fire protection systems shall be installed and maintained in all subdivision improvements (occupancies). In addition, the developer shall provide to all prospective buyers of property within a subdivision a statement that the property is considered not to have any fire protection other than built-in protection for insurance purposes. The developer and the Greater Eagle Fire Protection District shall mutually agree upon the contents and final form of such statement. Such statement shall be recorded in the records of the Eagle County Clerk and Recorder with the closing documents for the subject property at the time of sale of such property.

Amended 02/13/00

4.13.040 DRAINAGE

A. Drainage Plan

Every development plan and preliminary subdivision plan shall include a drainage plan which shall:

1. Be produced and certified by a registered professional;
2. Be subject to the approval of the Town Engineer;
3. Be designed to restrict site drainage to a rate no greater than the

historical rate, before development, for the ten (10) year storm, or include development of a storm drainage system to convey runoff water to an acceptable drainage channel off-site;

4. Identify existing channels, dry washes and stream beds with their ten (10) year storm calculations;
5. Identify the 100-year flood plain, indicating:
 - a. The High Hazard Area, where water velocities can be expected to be four feet per second or higher, or the water depth can be expected to exceed two feet; and;
 - b. The Low Hazard Area, where such velocities and depths are not anticipated with the 100-year storm;
6. Include calculations and quantities of flow at points of concentration within the development;
7. Identify possible breach points where irrigation ditches and dry washes intersect;
8. Depict the above information for the entire drainage basin unless the Town Engineer determines other boundaries for the plan;
9. Include a vicinity map locating the development and the boundaries of its drainage basin.
10. A plan for maintenance of drainage ways stating the party responsible for maintenance.

B. Drainage Improvements

Drainage improvements shall be provided by the developer and designed to meet the criteria of this Section and the Town's Street Construction Regulations. Where the proposed development results in the need for off site drainage improvements, such improvements shall be the responsibility of the applicant.

C. Drainage Easements

Drainage easements shall be designed to meet the criteria of this Section. The minimum width for a drainage easement shall be ten (10) feet. An additional fifteen (15) feet shall be required where needed, as determined by the Town Engineer, for vehicular access to maintain the system. No permanent structure shall be located within the easement.

EROSION AND SEDIMENT CONTROL, STABILIZATION, AND REVEGETATION.A. Applicability.

The requirements to provide an erosion and sediment control plan applies to all subdivisions and, when deemed necessary by the Town Planner, Building Official or Planning and Zoning Commission for Development Permits, Building Permits, and Grading Permits for fills and Excavations in excess of 250 cubic yards.

B. Plan for Erosion and Sediment Control.

1. The plan for erosion and sediment control shall be designed to ensure:
 - a. That natural drainage patterns are preserved and protected from increased water flows which may otherwise tend to alter such patterns or subject existing channels and adjacent areas to increased erosion, keeping any disturbance of natural vegetation and soil cover to a minimum;
 - b. That appropriate consideration of soil types is made in the design of cuts and fills, building sites, septic tanks and other land uses;
 - c. That structures, including settling ponds, filtration galleries, and sand traps are provided as necessary to prevent or minimize sedimentation of rivers, streams and drainage structures, and to prevent increased degradation of rivers and streams.
 - d. That fugitive dust is minimal and remains on property; that mud and debris tracking to the public right-of-way is minimized.
2. The following practices shall be incorporated into the plan for erosion and sediment control:
 - a. Keep cut and fill operations to a minimum so as to create the least erosion potential;
 - b. Retain and protect natural vegetation whenever feasible;
 - c. Minimize the exposed ground area and the duration of exposure;
 - d. Protect exposed critical areas with temporary vegetation and/or mulching during development;
 - e. Trap sediment in runoff water by use of debris basins, sediment basins, erosion control fencing, silt traps or similar measures until the disturbed area is stabilized;
 - f. Prevent surface water from damaging cut and fill slopes;
 - g. Locate cuts and fills so as not to endanger adjoining property, keep cuts less than 2:1 unless a subdivision variance or

Development Permit variance is granted;

- h. Avoid fills on natural water courses or constructed channels;
- i. Develop the grading plan so that water is not diverted onto the property of another landowner unless a written easement agreement allowing such drainage is received from the other landowner and duly recorded; and
- j. Exercise proper measures for dust control during earthwork operations, including watering of disturbed areas.
- k. Provide gravel at entrances to the public right-of-way to prevent tracking mud. Minimize the number of entrances from the right-of-way.
- l. Minimize time period in which the plan is implemented.
- m. Temporary or permanent irrigation may be required.

C. Slope Stabilization and Revegetation.

- 1. The plan for slope stabilization and revegetation shall be designed to ensure:
 - a. That adequate provision is made for revegetation and soil stabilization during and after development of the site; and
 - b. That all cuts and fills are adequately designed, engineered and vegetated to control erosion as well as stability of the entire mass, keeps cut less than 2:1 unless otherwise expressly approved by the Town.
 - c. Temporary or permanent irrigation may be required.
- 2. The following practices shall be incorporated into the plan for slope stabilization and revegetation:
 - a. Stabilize disturbed soils as quickly as practicable;
 - b. Establish and install permanent vegetation and structural erosion control measures as soon as practicable;
 - c. Place and compact fills so as to minimize sliding or erosion of soil and to provide a stable surface for establishment of vegetation;
 - d. Stockpile topsoil and reuse it after final site grading on slopes and other critical areas to be stabilized with vegetation; and
 - e. The use of retaining walls or structures to stabilize cut or its fill slopes will not be permitted without the written approval of the

Town Engineer and the Planning Commission.

D. Remedial Measures During Construction.

All permit holders must take adequate measures to assure that during construction off-site effects of fugitive dust, blown trash and tracking of mud are minimized. The Building Official may order measures to correct any off-site effects, including the following: regular watering of disturbed areas, placement of gravel at entrances to the property, hand or machine shoveling and cleaning of dirt and mud from adjacent properties and rights-of-way and hand removal of blown trash. The Building Official may order a plan for revegetation be immediately implemented if disturbed soil areas are not revegetated on a timely basis.

E. Fills and Excavations Not Accompanied By A Building Permit Or Subdivision Construction Plan.

1. Any person intending to fill and/or excavate in excess of 250 cubic yards shall be required to submit a plan for erosion and sediment control. The Town Planner and/or Building Official shall determine which elements of Section 4.13.050(B) shall be provided by the applicant. No construction shall occur until such plans are approved by the Town. A performance guarantee may be required by the Town Planner or Building Official pursuant to Section 4.06.010. For any fills and /or excavations which occur without a permit, the Town may require a plan for erosion and sediment control and/or a performance guarantee for corrective measures, or to insure completion of requirements of this Section.
2. For any areas of exposed soils which pose an erosion, water quality or fugitive dust problem, the Town Planner and/or Building Official may require immediate remedial action including regarding and revegetation or submission of a plan for erosion and sediment control and a performance guarantee to insure completion of the necessary corrective measures and the requirements of the Section.

4.13.060 LOT AND BLOCK DESIGN.

Each lot in a development shall be designed to provide an adequate, readily accessible building site for a structure devoted to the intended use of the land.

- A. Each lot shall have a minimum of twenty-five (25) feet of frontage on a dedicated public street and shall allow vehicular access from a public street; except that lots whose principal use is a portion of a multi-family or non-residential building may be allowed to front on a private road which meets the Town's Street Construction Regulations and the requirements of Section 4.04.100.E.
- B. Lots and blocks shall be designed to afford the maximum solar access to each building site.
- C. Lot sizes shall be in conformance with applicable zone district regulations or Planned Unit Development regulations. Where individual water or sewage

systems are proposed, lot sizes shall be in conformance with the current standards of the Colorado Department of Health.

- D. If any part of a residential development borders a railroad right-of-way, lots adjacent to such right-of-way shall either have a minimum depth of 150 feet or be provided with a landscaped fifty-foot buffer adjacent to the railway or a parallel street adjacent to the railway shall be provided. No dwelling unit shall be located within fifty (50) feet of the railroad right-of-way.

4.13.065

SCHOOL LAND DEDICATION.

Every approved major residential development and Major residential subdivision, or Major Development or Major Subdivision for partial residential use, as defined in Chapters 4.06 and 4.12, shall include a dedication of land to the Town, as determined by the Board of Trustees, for use by the Eagle County School District RE50-J (“School District”), roughly proportional to school needs generated by the proposed residential uses. In the alternative, the Board of Trustees may require the payment of cash in lieu of such dedication as further described below. The dedication of such land, or payment of cash in lieu thereof, shall be made at the time of annexation of any land proposed for residential development or partial residential development, if the amount of land or payment required can be ascertained; or at the time of approval of the Final Subdivision Plat; or the issuance of a Major Development Permit, whichever ever may first occur. Every Major Subdivision and Major Development which increases the number of dwelling units above that approved as of the effective date of this Section shall make the additional dedication or fee payment based upon the increase number of units, as provided herein, at the time of approval of the Final Plat, or issuance of a Major Development Permit, whichever ever may first occur.

A. Description.

1. Dedicated land shall be suitable for use by the School District, and shall not contain steep slopes, rock formations, adverse topography, utility easements, or other features which may make the site unsuitable for use.
2. A minimum of eighty percent (80%) of the land dedicated shall have a slope of ten percent (10%) or less and shall lend itself to utilization for School District purposes.
3. Adequate water rights dedication must be provided for all school land dedicated, pursuant to Title 12 of the Eagle Municipal Code.
4. Title to the school land dedicated or conveyed shall be good and its transfer rightful, and such land shall be free and clear of all liens and encumbrances whatsoever, except for current general property taxes and patent reservations.

B. Amount.

The owner of the land proposed for a Major Subdivision or Major Development Permit for residential uses, or partial residential uses, shall dedicate land in an amount roughly proportional to the school needs generated by the proposed

residential uses and the future inhabitants thereof. It shall be a rebuttable presumption that the application of the formulas set forth below provides for a land dedication that is roughly proportional to such school needs:

1. Single family and duplex units.

Number of units x .014495 = dedication requirement in acres.

2. Multi-family units.

Number of units x .002676 = dedication requirement in acres

3. Mobile home units.

Number of units x .022300 = dedication requirement in acres

4. The Town may consider a request by the land owner for a smaller dedication of school land when deemed appropriate because of size, location, or nature of the proposed development. Similarly, the Town may require a larger dedication of school lands when deemed necessary because of the size, location, density or nature of the proposed development.

C. Maintenance and Use of Dedicated Land.

1. When land is dedicated for the purpose of providing a site for a school, related recreational facilities, administration facilities, or other School District needs, the land shall be conveyed by the Town of Eagle to the School District by general warranty deed, free and clear of any liens or encumbrances.

2. All lands conveyed by the Town to the School District pursuant to this Section shall be maintained by the School District, may sell such land to a third party. All proceeds from such sale shall be held by the School District and shall be used for the acquisition of other school land or for the construction of expansion of school facilities.

D. Payment in Lieu of Dedication.

1. When the dedication of sites and land areas for school needs are not reasonably necessary to serve the proposed subdivision and future residents thereof because of the size, location, proximity to existing facilities, topography or nature of the proposed development, the Board of Trustees, upon recommendations from the School District and other affected entities, shall require, in lieu of such dedication of land, the payment in cash by the applicant of an amount not to exceed the full market value of such sites and land areas.

2. The full market value shall mean the current market value of the unimproved land after completion of platting. Such value shall be set annually by the Board of Trustees on a per acre basis after considering

recommendations from the School District and other appropriate parties. The same value per acre shall be used throughout the Town.

3. If the Applicant does not agree with the established value per acre, the applicant may submit the report of a qualified appraiser who is M.A.I. certified, which establishes a different value. The Town Board shall review the report and determine if such appraised value is reasonable. Based upon its review of the applicant's appraisal, and all other relevant information available to it, the Town Board shall then determine the value off such land for purpose of payment of cash in lieu of dedication.
4. When cash in lieu of a school land dedication is required, such funds shall be transferred to the School District within sixty (60) days following payment to the Town for the acquisition of reasonably necessary sites for the construction of school facilities, or for the construction of employee housing required by the School District, or for the purchase of employee housing required by the School District, or for the development or capital improvements to school sites within the Town. If housing units are purchased, a deed restriction restricting their use to School District employee housing shall be required and ownership shall remain in the name of the School District.
5. All funds collected pursuant to this Section shall be accounted for in the manner required by Sections 29-1-801, *et, seq.*, C.R.S., and other applicable law.

E. Limitations on Use of Dedicated School Lands or Cash Paid in Lieu Thereof.

1. Except as otherwise provided in this Section, any dedicated school lands which are not utilized for the construction or expansion of school facilities within ten (10) years from the date of dedication shall be refunded by the School District to the land owner making the dedication. Any fees paid in lieu of such land dedication which are not utilized for the acquisition, construction, or expansion of school facilities within ten (10) years of the date of collection shall be refunded by the School District, with applicable interest, to the land owner from which the fees were collected. Any proceeds from the sale of the school lands pursuant to Subsection C which are not utilized for the acquisition, construction, or expansion of school facilities within ten (10) years from the date of dedication of the land sold shall be refunded by the School District, with applicable interest, to the land owner making such dedication. The School District shall give written notice by first class mail to the last address on file with the Town to the land owner entitled to such conveyance or refund. If such land owner does not file a written claim for such property or refund with the School District within ninety (90) days of the mailing of such notice, such right to reconveyance or refund shall be deemed forfeited and such land or funds shall revert to the School District for any lawful purposes.
2. The School District may, for good cause shown, request the Town to extend the ten (10) year period of time specified in the above paragraph.

Such request shall be made at a public hearing held by the Board of Trustees. The Board, in its discretion, for good cause shown, may extend such period of time for an additional period as the Town Board deems reasonable and necessary.

3. The Town of Eagle is specifically exempted from the requirements of this Section.

Amended 08/11/95

4.13.070 STREETS AND ALLEYS.

A. Layout and Design.

1. The street pattern shall be designed to afford safe and convenient access to all lots within the subdivision.
2. Streets shall conform to the Town's Major Street Plan and shall be named accordingly.
3. The street pattern shall have a logical relationship to topography.
4. Streets shall be aligned to afford maximum solar access to each building site.
5. Where a proposed development borders an arterial, as designated in the Town's Major Street Plan, street intersections with the arterial street shall be at minimum intervals of 1,000 feet.
6. Street design and layout shall meet the design criteria set forth in the Town's Design and Construction Specifications for Streets.
7. Where the proposed development results in the need for off- site street improvements, such improvements shall be the responsibility of the applicant.

B. Construction. All streets and related improvements shall be constructed in accordance with the Town's Street Construction Regulations and standards for Water System Development, which shall be promulgated from time to time by the Town Board.

C. Street Name Signs. Street name signs shall be provided by the developer, subject to approval by the Town's Traffic Engineer.

D. Traffic Control Devices. All traffic control signs, signals or devices shall be provided by the developer in conformance with the most current edition of the "Manual on Uniform Traffic Control Devices", as published by the U.S. Department of Transportation, Federal Highway Administration, and shall be subject to approval by the Town's Traffic Engineer before installation.

E. Street Lights. Street lighting shall be provided by the developer in conformance with the Town of Eagle Lighting Ordinance as described in Section

4.07.005.

- F. Street Maintenance – Notice. The Town shall not be responsible for the maintenance of streets in new subdivisions until approved pursuant to Section 4.13.180.C. Until such streets have been approved the Town shall post at all entrances to the subdivision a sign which states:

"Notice: Roads within this Subdivision have not been Accepted by the Town for Maintenance."

Amended 02/13/00

4.13.75 EASEMENTS.

- A. Dedication of Easements.

Unless otherwise determined by the Town, all easements necessary to provide service to a subdivision or other development shall be dedicated to the Town of Eagle, free and clear of all liens and encumbrances, including, but not limited to, water easements, wastewater easements, electric easements, natural gas easements, telephone service easements, telecommunications service easements, cable television service easements, general utility easements, access easements, and bicycle and pedestrian pathway easements. The dimensions of such easements shall be subject to approval by the Town Engineer.

Every certificate of dedication contained on a final plat dedicating an easement to the Town shall include the following:

“The dedication of easement(s) shown hereon to the Town preclude the installation of improvements, including but not limited to trees, shrubs and rocks, the deposit of materials, or the alteration of the existing ground elevation, within the easement area, which could in any manner impair the Town’s or other service provider’s use of the easement as provided in this dedication.”

- B. Encroachments Within Easements Prohibited.

Unless otherwise permitted by the Public Works Director, no person shall construct improvements, deposit materials, or alter the existing ground elevation within an easement dedicated to the Town of Eagle which could in any way impair the Town’s or other service provider’s use of such easement. Encroachments that do not alter the existing grade and ground elevation and that do not in any manner restrict vehicular access to and along the dedicated easement shall not require an easement encroachment permit. Provided, however, neither the Town nor any service provider shall be responsible for damage to surface encroachments such as landscaping resulting from use of such easements for their intended purpose.

- C. Easement Encroachment Permit.

In the event a property owner desires to construct improvements, deposit materials, or alter the existing ground elevation or grade within an easement dedicated to the Town of Eagle, such property owner may apply to the Public

Works Director for an easement encroachment permit. Such application shall be made on a form promulgated by the Public Works Director and shall be accompanied by a site plan depicting the property, the subject easement, and the proposed encroachment. Such application for a permit may be approved by the Public Works Director in his sole discretion. Encroachments that do not restrict vehicular access to and along an easement and that do not alter the existing grade or ground elevation shall not require a permit. Unless otherwise provided in the permit, an easement encroachment permit shall be revocable upon sixty (60) days notice from the Town to the property owner. The Town may require an easement encroachment permit to be recorded in the records of the Eagle County Clerk and Recorder. All recording costs shall be borne by the property owner.

Amended 09/13/2002

4.13.080 SIDEWALKS AND BIKEWAYS.

- A. Sidewalks and bikeways shall be provided by the developer to allow convenient pedestrian access through or across the development and joining with pedestrian ways and bikeways of adjacent properties.
- B. Sidewalks and bikeways shall be designed and constructed in conformance with the Town Street Construction Regulations.

4.13.090 ACCESS.

- A. Lot and block patterns shall allow for access onto a street from each lot. The use of an easement or alley for principal access to a lot shall not be allowed.
- B. No more than one access point from an arterial or collector street shall be provided to any development unless the applicant documents that additional access points would be significantly beneficial to the safety and operation of the street or that provision of only one access point would be detrimental to public safety. Such documentation shall be subject to approval by the Town's Traffic Engineer.
- C. Private access onto any public street shall be designed to permit user vehicles to enter and exit in forward drive, except for access from a single-family or two-family lot onto a local street or collector street.
- D. As provided by Colorado Revised Statute 43-2-147, as amended, any development requiring access onto a State Highway shall obtain a permit for such access in accordance with the Colorado State Highway Access Control Code before the issuance of a development permit.

4.13.100 OFF-STREET PARKING.

Except as otherwise provided in this Title, every subdivision and development shall comply with the provisions of Section 4.07.050, Parking Standards.

4.13.110 WATER DISTRIBUTION.

- A. The developer shall provide additional water rights pursuant to Title 12, storage, and distribution facilities to serve the proposed development including all areas of park land dedication, common open space, and private recreation facilities. Any such facilities shall be in conformance with Title 12 of the Eagle Municipal Code.
- B. The water main distribution system of a development shall be designed to connect with the Town's water system, to be compatible with the existing system and to make water available to each lot in the proposed development. Fire hydrants shall be located to ensure protection to each lot and shall be approved by the Greater Eagle Fire Protection District. Design of the system shall be to the Town's specifications and Water Distribution Regulations.

4.13.120 WASTEWATER COLLECTION.

- A. Where the Eagle Sanitation District wastewater collection system is accessible the wastewater collection system shall be designed to connect with the system and provide service to each lot in a proposed development. Design of the system shall be the responsibility of the developer, with all plans subject to Eagle Sanitation District specifications and the approval of the Town's Engineer.
- B. Where the Sanitation District wastewater collection system is not accessible, the developer shall be responsible for installation of a wastewater collection and treatment system for the development. Such system shall meet all federal, state and local laws and regulations concerning design, installation, and operation of the system.
- C. Connection to a public wastewater system when it becomes available.

4.13.130 UNDERGROUND UTILITIES.

Except in the Industrial Zone District, all wires, cables or other equipment for the distribution of electric energy, and telecommunication signals with the exception of transformers, meters, junction boxes and like equipment shall be placed underground. Where subdivisions or developments are approved along or with crossing existing overhead power and communications facilities, energy and telecommunications may be obtained from these existing facilities. The service connections to these facilities shall be placed underground unless otherwise approved by the Town Board due to economic, engineering or aesthetic reasons. Utility easements and rights-of-way shall be provided in the subdivision or development.

4.13.135 FIRE PROTECTION.

- A. Compliance With Applicable Codes.

The subdivision shall comply all provisions of the current fire code adopted by the Greater Eagle Fire Protection District, applicable building codes, and any other duly adopted code, statute, ordinance or standard relating to fire protection, unless enforceable, equivalent protection or mitigation efforts are undertaken the

developer as approved by the Greater Eagle Fire Protection District and the Town.

B. Wildland/Urban Inter-mix Areas.

Approved fire resistive construction and landscaping in accordance with the current fire code adopted by the Greater Eagle Fire Protection District and duly adopted Town building codes shall be required when wildland/urban inter-mix/interface areas within a subdivision.

C. Automatic Fire Protection Systems Required.

1. Any development which is located more than three (3) driving miles from the nearest actual or to be constructed fire station shall have approved, built-in, automatic fire protection systems installed and maintained in all improvements (occupancies).
2. In all areas within a subdivision which are more than five (5) driving miles from the nearest actual or to be constructed fire station, approved, built-in automatic fire protection systems shall be installed and maintained in all subdivision improvements (occupancies). In addition, the developer shall provide to all prospective buyers of property within a subdivision a statement that the property is considered not to have any fire protection other than built-in protection for insurance purpose. The developer and the Greater Eagle Fire Protection District shall mutually agree upon the contents and final form of such statement. Such statement shall be recorded in the records of the Eagle County Clerk and Recorder with the closing documents for the subject property at the time of sale of such property.

Amended 02/13/00

4.13.140 BOUNDARY SURVEY AND MONUMENTATION.

- A. The boundary survey, internal property lines and monumentation as depicted in the final plat for a subdivision shall meet all requirements established under state law.
- B. Survey data shall be checked by the Town Engineer prior to approval of the final plat.
- C. Monuments shall be set to specifications of the Town Engineer with at least one monument on the boundary established as a permanent benchmark.
- D. All survey traverses shall close to within one foot in ten thousand (10,000) feet, or within a tolerance of 0.01%.

Amended 06/02/91

4.13.150 DEDICATIONS – GENERAL.

Dedication of land and easements, free and clear of all liens and encumbrances, shall be

made by means of a subdivision plat or deed at time of final plat. Dedications shall be made to fulfill the foregoing requirements for utility easements, drainage easements, pedestrian easements, streets and alleys, as well as other public dedications as needed.

4.13.160

MUNICIPAL AND PARK LAND DEDICATION.

Unless otherwise provided in this paragraph every new subdivision of land not platted within the Town of Eagle shall include either: (a) a dedication of land to the Town, Recreation District, or other entity, as determined by the Town Board, to be used for parks and recreation or for municipal functions requiring land; or (b) payment of a park and municipal land fee in an amount as provided in this chapter. Re-subdivisions of already subdivided land, condominiums and townhouse subdivisions are exempt from this Municipal Park Land Dedication requirement.

A. Description.

1. Dedicated land may include flood plain lands, national and state historical or natural features, and proposed public areas set aside in state, regional, county or Town plans. Dedicated park land shall not include sites for technical, private or public schools, sites for service organizations which are not open to the general public, and sites unsuitable for public use due to features which may be harmful to health and safety. Wetlands are excluded from a credit against the minimum requirement for park land dedication.
2. A minimum of eighty (80) percent of land dedicated shall have a slope of ten (10) percent or less and shall lend itself to utilization for municipal and public recreation purposes, including but not limited to the following: playing fields, tennis courts, picnic sites, trails, boating areas, maintenance buildings, and offices.
3. Wherever a development proposal includes any part of a pedestrian, bicycle, equestrian or skiing trail designated by the Town in its plans, a public easement shall be dedicated in compliance with the plan, and such easement may be included in the required park land dedication.
4. Adequate water rights dedication must be provided for all municipal and park land dedication, pursuant to Title 12.
5. The Town, at its sole discretion, may elect to use the land dedication for any municipal function which it deems necessary. Such use shall be compatible with surrounding uses.

B. Amount.

Park and municipal land shall be dedicated in the ratio of 0.012 acres per resident of the proposed development, to be computed as follows:

1. 3.5 residents per single family dwelling unit.
2. 3.0 residents per two-family dwelling unit.

3. 2.5 residents per multi-family dwelling unit or mobile home.

For commercial or industrial uses, eight percent of the total gross area shall be dedicated for park lands.

C. Private Recreation Facilities.

The total acreage required to be dedicated for public park and municipal lands as calculated above may be reduced by up to fifty percent in exchange for provision of private recreation facilities that provide for the recreational needs of the residents of the proposed development, if the Town Board finds all of the following:

1. The private recreation facilities will fulfill a major portion of the recreational demands of the residents;
2. The private recreation facilities will be completed at the same time as or prior to the housing or non-residential facilities in the development;
3. There exists a mechanism to ensure the continued private maintenance of the facilities; and
4. Adequate water rights dedication and tap fee payment pursuant to Title 12 and irrigation system development will be provided for private recreation facilities. For irrigation systems using treated water, tap fees shall be paid and water rights conveyed to the Town. Irrigation system development shall be conveyed to the entity responsible for the ongoing maintenance of the private recreation facilities. For irrigation systems using raw water, water rights and irrigation system development shall be conveyed to the entity responsible for the ongoing maintenance of the private recreation facilities.
5. Adequate provisions are made, subject to the approval of the Town Attorney, to ensure 1. and 2. above.

D. Payment in Lieu of Dedication.

1. In the event the Town Board determines that park or municipal land is not needed within the area of development due to the size of the development or proximity of other parkland, then the Board may require the applicant to (a) make a cash payment in lieu of land dedications; or (b) to dedicate other property owned by the applicant for use as park land; or (c) a combination of (a) and (b).
2. The amount of cash payment required shall be based on the number of acres of park land dedication which otherwise would be required, less any reductions for private recreation facilities, as provided above.
3. The Town Board shall, by resolution, set the per-acre fee for the cash in lieu payment which may be updated from time to time.

4. If the Town determines to accept other property not within the development as full or partial fulfillment of the requirements of this section, the acreage required for dedication shall be computed as described in paragraph B. above. If the acreage is not sufficient to meet the requirements of B. above, the remaining requirement may be met with a cash-in-lieu payment.
5. Payment in lieu of land dedication shall be due and payable at the time of Final Subdivision Plat approval and shall be described in the subdivision agreement or development permit.
6. Of the proceeds from a payment in lieu of land dedication, a minimum of 50% shall be placed in a park land fund to be established and maintained for the acquisition and improvement of land for parks, playgrounds and recreation areas, which may benefit the residents of the Town in general, as well as those of the proposed subdivision or development. The remainder of the proceeds, if any, shall be placed in the Town Capital Improvements Fund. Such determination shall be made at the sole discretion of the Board of Trustees.

Amended 4/25/2017

4.13.170 DESIGN VARIANCE.

- A. A variance from the strict application of the requirements of Sections 4.13.030 through 4.13.090, inclusive, may be granted by the Town Board or Planning Commission, whichever body authorizes the development permit or subdivision agreement, where a finding is made that there exists on the property in question exceptional topographical, soil or other sub-surface condition or other extraordinary conditions peculiar to the site or existing buildings or lot configuration such that strict application of the requirement of the regulation from which the variance is requested would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the applicant or owner of the property in question and that the public good would be better served by granting of the variance. Such variance shall not be granted if the same would be detrimental to the public good or impair the intent and purposes of this Title. Such design variance request shall be made and reviewed concurrently with the development plan or preliminary subdivision plan and, if granted, shall be described and acknowledged in the development permit or subdivision agreement.
- B. The design standards set forth in Sections 4.13.030 through 4.13.090, inclusive, but not the Town's Street Construction Regulations, may be modified by the Planning Commission for a Planned Unit Development without a separate requirement for a design variance.

4.13.180 NON-CONFORMING DESIGN, IMPROVEMENTS, AND DEDICATIONS.

Except as otherwise provided in this Title, any development which is not in conformance with the requirements of this Chapter for design, improvements or dedications shall be made to conform with such requirements before being issued a development permit or a

building permit for construction of a new building.

4.13.185 STREET IMPROVEMENT FEE.

A. Purpose. It is the purpose of this Section to:

1. Adopt a rational system for identifying growth related costs incurred by the Town and provide for new and expanded street facilities made necessary by expanded population levels and economic activity levels. The Town desires to adopt a fee structure to insure that the Town's street facilities needed to support new development meet or exceed the Adopted Level of Service (LOS) standards established by the Town for public streets. Arterial streets and collector streets shall have a LOS of C or higher except as may further be provided under the Town's Adopted Level of Service standards. Local streets shall have a LOS of B or higher.
2. Insure that the fees establish by this Section are based upon, and do not exceed the cost of providing additional rights-of-way, street construction, and street improvements necessitated by the new land developments for which the fees are levied.
3. Implement the methodology and analysis for the determination of the impact of new development on the need for, and cost of, additional rights-of-way, street construction, and street improvements in the own, as contained in the Town of Eagle Transportation Study prepared by Matthew J. Delich, P.E.
4. Recognize that most new commercial and industrial uses will generate sales and/or use tax revenues which can be used for constructing necessary street improvements resulting from such commercial or industrial uses.
5. Regulate the use and development of land so as to assure that new development bears a roughly proportionate share of the additional cost of capital expenditures not paid for from the Sales and Use Tax Capital Improvement Fund which are necessary to provide adequate streets in the Town of Eagle.
6. Assure that the system of fees implementation herein will be linked to an implementable capital improvements program designed to provide the street improvements for which the fees are imposed.

B. Definitions. For the purpose of this Section, the following definitions shall apply:

1. "Bank" means any financial institution.
2. "Capital Improvement" includes transportation planning, preliminary

engineering, engineering design studies, land surveys, right-of-way acquisition, engineering, permitting, and construction of all the necessary features for any street construction project including, but not limited to:

- a. Construction of new through lanes;
 - b. Construction of new turn lanes;
 - c. Intersection improvements including the construction of “round-a-bouts”;
 - d. Construction of new drainage facilities, sidewalks, bicycle lanes, curbs, gutters, and landscaping in conjunction with new street construction;
 - e. Purchase and installation of traffic signalization; and
 - f. Relocation of utilities to accommodate new street construction.
3. “Convenience store with gas pumps” means an establishment that sells convenience foods, sundries, newspapers, magazines and gasoline.
 4. “Commercial General” means any premises that is devoted to any commercial purpose or public or governmental purpose not included within the definitions of retail, bank, restaurants, convenience store office, or industrial development set forth herein.
 5. “Developer” is a person commencing a land development activity which generates traffic and which requires the approval of a Subdivision Final Plat, except lot line adjustments, pursuant to Chapter 4.12; approval of a Planned Unit Development pursuant to Chapter 4.11; approval of a Development Permit pursuant to Chapter 4.06; or issuance of a Special Use Permit pursuant to Section 4.05.010.
 6. “Development Approval” means the approval of any Final Subdivision Plat, except lot line adjustments; Planned Unit Development; Development Permit or Special Use after December 1, 1997.
 7. “Expansion of capacity” of a street applies to all street and intersection capacity enhancements and includes but is not limited to extensions, widening, intersection improvements, construction of “round-a-bouts”, signalization, and expansion of bridges.
 8. “Fast Food Restaurant” means a restaurant with a large carry out business, and that typically is open long hours, serves three meals a day, has a turnover of one hour or less, and fills orders in ten minutes or less. Such a restaurant very often has a drive through window.
 9. “Floor area” means the area on each floor of a building included with the surrounding exterior walls exclusive of open courts.

10. “High turnover sit down restaurant” means a moderately priced restaurant with a turnover of less than one hour and usually serves three meals per day such a restaurant has very little or no carry out business and frequently operates under a franchise or is part of a chain.
11. “Industrial development” means any premises devoted primarily to manufacturing, processing, assembly or storage of tangible personal property, warehouses, distribution and wholesale uses, utility service facilities, and other accessory buildings reasonably required for maintenance or security of the above uses.
12. “Land development activity generating traffic” means any change in land use or any construction of buildings or structures, or any change in the use of a structure that attracts or produces vehicular trips.
13. “Level of Service” shall have the same meaning as set for the in the Transportation Research Board’s Highway Capacity Manual, Special, Report 209 (1994), or as otherwise defined in the Town’s most recent transportation study.
14. “Office development” means any premises devoted primarily to office use and includes single tenant office buildings, multi-tenant office buildings, medical clinics and offices, veterinary clinics, research facilities, and experimental or testing laboratories.
15. “Quality restaurant” means a restaurant that usually has a turnover of one hour or longer, does not have carry out service, and usually does not operate under a franchise and is not part of a chain.
16. “Residential – multi-family” includes apartment units, condominium units and town home units.
17. “Residential – single family” includes detached family residences, duplexes, mobile homes, and travel trailers.
18. “Retail” means any premises devoted primarily to the sale of merchandise to the general public including, but not limited to, small establishments, large or “big box” stores, and grocery stores and super markets.

C. Imposition of Street Improvement Fee.

1. Any person who, after the effective date of this Section, seeks to develop land within the Town by obtaining approval of a Planned Unit Development pursuant to Chapter 4.11; a Subdivision Final Plat pursuant to Chapter 4.12, except lot line adjustments; a Development Permit pursuant to Chapter 4.06; or a Special Use Permit pursuant to Section 4.05.010 after December 1, 1997, in order to make an improvement to land which will generate additional traffic is required to pay a Street Improvement Fee in the manner and amount set forth in this Section.

D. Computation of the Amount of Street Improvement Fee.

1. At the option of the Developer, the amount of the Street Improvement Fee may be determined in accordance with the following fee schedule:

<u>Use</u>	<u>Number of Trip Ends</u>	<u>Fee</u>
Residential – Single Family	9.6	\$1,016.00/dwelling unit
Residential – Multi-Family	6.1	\$646.00/dwelling unit
Bank	225.4/1,000 sq. ft.	\$7,634.00/1,000 sq.ft.
Convenience Store w/Gas	304.4/1,000 sq. ft.	\$10,309.00/1,000 sq.ft.
High Turnover Sit Down Restaurant	106.7/1,000 sq. ft.	\$3,613.00/1,000 sq. ft.
Fast Food Restaurant	404.0/1,000 sq. ft.	\$13,681.00/1,000 sq. ft.
Industrial	5.7/1,000 sq. ft.	\$194.00/1,000 sq. ft.
Commercial General	30/1,000 sq. ft.	\$1,016.00/1,000 sq. ft.

In the event a particular use does not reasonably fit into one of the categories above, or the estimated number of trip ends for a use significantly departs from the above schedule, the Town Planner shall calculate the fee based on the data contained in the publication, Trip Generation, 6th Edition, Institute of Transportation Engineers.

- a. If the approval requested is for mixed uses, then the Fee shall be determined through using the applicable schedule by apportioning the space committed to uses specified on the schedule.
- b. For applications for an amendment or change to an approval previously obtained, the amount of the Fee is the difference between the Fee now applicable and any amount previously paid pursuant to this Section.
- c. In the case of change of use, redevelopment, or expansion or modification of an existing use which requires a Development Approval, the Street Improvement Fee shall be based upon the net positive increase in the Fee for the new use as compared to the previous use.
- d. In event the amount of the Fee cannot be calculated at the time of Subdivision Final Plat approval because the subdivision contains non-residential development and the specific type of

uses and floor area for such uses are unknown, the Town may elect to defer computation and payment of the Fee until approval of Development Permits within the subdivision, or the Town may require that an estimated Fee be paid. If an estimated Fee is paid, any under-payment shall be recovered at the time of Development Permit approval. In the event an over-payment is made, such over-payment shall be refunded, without interest, within thirty (30) days following the date the Street Improvement Fee can be completely computed for the subdivision.

2. If the Developer elects not to have the Street Improvement Fee determined in accordance with Paragraph 1 above, the Developer shall prepare and submit to the Town Planner a site specific fee calculation study for the land development activity for which approval is requested. The site specific fee calculation study shall follow the prescribed methodologies and formats for the study established by the Town Planner. The traffic engineering and/or economic documentation submitted shall show the basis upon which the site specific fee calculation was made, including, but not limited to, the following:
 - a. Traffic Engineering Studies:
 1. Documentation of trip generation rates appropriate for the proposed development activity.
 2. Documentation of trip length appropriate for the development activity.
 3. Documentation of any other trip data appropriate for the proposed land development activity.
 - b. Economic Documentation Studies:
 1. Documentation of the cost per lane per mile for street construction and any other street improvements necessitated by the proposed development activity.
 2. Documentation of credits attributable to the proposed development activity which can be expected to be available to replace the portion of the service volume used by the traffic generated by the proposed development activity.

Site specific fee calculation studies shall be prepared and presented by professionals qualified in their respective fields. The Town Planner shall consider the documentation submitted by the Developer but is not required to accept such documentation he reasonably deems to be inaccurate or not reliable, and may, in the alternative, require the Developer to submit additional or different documentation for consideration. If an acceptable site specific calculation study is not

presented, the Developer shall pay the Street Improvement Fees based upon the schedule pursuant to this Paragraph may be appealed to the board of Trustees by filing a written request with the Town Manager within ten (10) days of the Town Planner's determination. Following the submittal of such request, the Town Board shall hold a public hearing to determine the amount of the Street Improvement Fee which shall be paid prior to the approval of the proposed development.

- E. Payment of Fee Required. A Developer requesting subdivision approval shall pay the Street Improvement Fee required by this Section prior to the recording of a Final Plat, except as otherwise provided in this Section for non-residential subdivision. A Developer requesting approval of a Planned Unit Development shall pay the Street Improvement Fee prior to the approval of the Development Permit or Special Use Permit shall pay such Fee prior to the issuance of the permit.
- F. Street Improvement Fee Fund Established.
1. All Fees collected pursuant to this Section shall be deposited in a public works fund to be created by resolution of the Town Board, and shall be used for the projects therein identified. Such fund shall be established to comply with the provisions of Section 31-15-302(1)(f)(I), C.R.S. All funds collected pursuant to this Section shall be accounted for in the manner required by Section 29-1-801, *et.seq.*, C.R.S. and other applicable law.
 2. Funds collected from Street Improvement Fees shall be used for the purpose of capital improvements to, and expansion of, street facilities associated with the arterial and collector street network as designated by the Town.
 3. No fund shall be used for periodic or routine maintenance.
 4. In the event that bonds or similar debt instruments are issued for the advanced provision of capital facilities for which Street Improvement Fees may be expended, such Fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are of the type described in Paragraphs 1 and 2 of this subsection.
- G. Refund of Fees Paid
1. If a Development Approval expires without commencement of construction or development, the Developer shall be entitled to a refund, without interest, of the Street Improvement Fee paid as a condition for its issuance, except that the Town shall retain one percent (1%) of the fee to off-set a portion of the cost of collection and refund. The Developer must submit an application for such a refund to the Town Manager within thirty (30) days of the expiration of the Development Approval granted.
 2. Any funds not expended or encumbered by the end of the calendar

quarter immediately following ten (10) years from the date the Street Improvement Fee was paid shall, upon application of the then current land owner, be returned to such land owner with interest at the legal rate, provided that the land owner submits an application for a refund to the Town Manager within one hundred eighty (180) days of the expiration of the ten (10) year period.

H. Credit for Improvements

1. No credit shall be given for site related improvements or site related right-of-way dedications, including access roads leading to the development, driveways and streets within the development, acceleration and deceleration lanes, and right and left turn lanes leading to those streets, and traffic control measures for such streets.
2. Upon approval of the Town Board, and Developer obligated to pay a Fee as set forth in this Section shall receive a credit against the amounts due or to become due for street improvements installed and paid for by such Developer when such street improvements are in addition to the site related improvements required to be installed pursuant to this Title.

I. Exemption from Payment of Fee. The Board of Trustees may, by resolution, grant an exemption from all or any part of the Street Improvement Fees required by this Section upon a finding that such waiver is in the best interests of the public by encouraging activities that provide significant social, economic or cultural benefits. Whenever a Street Improvement Fee is waived, the Town Board shall direct that the waived Fee be paid by the general fund or other appropriate fund.

J. Unpaid Street Improvement Fee – Lien. All Street Improvement Fees shall be a lien upon each lot or parcel of land within a development from the due date thereof, as set forth in this Section until paid. If such Fees are not paid when due, in addition to any other means provided by law, the Town Clerk shall certify such delinquent charges to the Treasurer of Eagle County and the charges shall be collected in the same manner as though they were part of the taxes. The Town reserves the right to withhold or revoke any permits, certificates or other approvals to any Developer who is delinquent in the payment of Street Improvement Fees.

K. Review of Fees. The fees imposed by this Section and moneys expended from the public works fund shall be reviewed and adjusted as follows:

1. The Street Improvement Fees established in this Section shall be adjusted annually effective January 15 of each year with the first adjustment to occur on January 15, 1999. The adjustment shall be equal to the percentage change in construction costs for Colorado public buildings type II-N (weighted 15%), type III-N (weighted 15%) and type V-N (weighted 70%) as set forth in the preceding year's December issue of the Building Standards Newsletter published by the International Conference of Building Officials. The Fees described in subsection (D) of this Section shall be adjusted by the Town Planner accordingly and the

Town Planner and Town Clerk shall maintain copies of the current Fees Table.

2. The Town Manager shall report to the Town Board, in conjunction with the presentation of the proposed budget, annually, on the actual and proposed expenditures and projects accomplished and to be accomplished from the public works fund.

Amended 11/21/97

Amended 02/20/98

4.13.186 FIRE PROTECTION IMPACT FEE

A. Purpose. It is the purpose of this Section to:

1. Adopt a rational system for identifying and mitigating growth related costs incurred by the Greater Eagle Fire Protection District and provide for new and expanded fire protection services and facilities made necessary by expanded population and economic activity levels. The Town desires to adopt a fee structure to insure that the Greater Eagle Fire Protection District's facilities and equipment needed to support new development meet or exceed the adopted Level of Service (LOS) standards established by the Town for fire protection services.
2. Insure that the fees established by this Section are based upon, and do not exceed, the cost of providing additional Capital Improvements necessitated by new land developments for which the fees are levied.
3. Implement the methodology and analysis for the determination of the impact of new development on the need for, and cost of, additional Capital Improvements as contained in the Greater Eagle Fire Protection District's Study of Fiscal Impact, dated September, 1999.
4. Regulate the use and development of land so as to assure that new developments bear a roughly proportionate share of the cost of capital expenditures necessary to provide adequate fire protection by the Greater Eagle Fire Protection District with the Town of Eagle.
5. Assure that the system of fees implemented herein will be linked to an implemented Capital Improvements program designed to provide the facilities and equipment for which the fees are imposed.

B. Definitions. For the purposes of this Section, the following definitions shall apply:

1. "Capital Improvement" includes fire protection planning, preliminary architectural and engineering services, architectural and engineering design studies, land surveys, land acquisition, site improvements and off-site improvements associated with new or expanded facilities; the construction of buildings and facilities; and the purchase of fire suppression apparatus and equipment, including communications

equipment, with an average useable life of at least three years, necessary to adequately protect and defend new development and its inhabitants, while maintaining the Greater Eagle Fire Protection District's current Insurance Services Organization (I.S.O.) rating. "Capital Improvements" do not include periodic or routine maintenance of facilities and equipment, personnel costs or operational expenses.

2. "Developer" is a person commencing a Land Development Activity requiring the availability of additional fire protection services and which requires the approval of a Subdivision Final Plat except lot line adjustments, pursuant to Chapter 4.12; approval of a Planned Unit Development pursuant to Chapter 4.11; approval of a Development Permit pursuant to Chapter 4.06; or issuance of a Special Use Permit pursuant to Section 4.05.010.
3. "Development Approval" means the approval of any final Subdivision Plat except lot lines adjustments; a Planned Unit Development; a Development Permit or a Special Use following the effective date of the Section.
4. "Land Development Activity" requiring additional fire protection services" means any change in land use or any construction of buildings or structures, or any change in the use of a structure that could require the rendering of additional fire protection services over and above the previous use. When a change of use, redevelopment or modification of an existing use requires Development Approval, the Impact Fee shall be based upon the net increase in the Impact Fee for the new use as compared to the previous use.
5. "Fire Protection" means the prevention and extinguishments of fire; the protection of life and property from fire; and the enforcement of municipal, county, district and state fire prevention codes.

C. Imposition of Fire Protection Impact Fee.

Any person who, after the effective date of this Section, seeks to develop land within the Town by obtaining approval of a Planned Unit Development pursuant to Chapter 4.11; a Subdivision Final Plat pursuant to Chapter 4.12, except lot line adjustments; a Development Permit pursuant to Chapter 4.06; or a Special Use Permit pursuant to Section 4.05.010 after the effective date of this Section, constituting Land Development Activity requiring the availability of additional fire protection services is required to pay a Fire Protection Impact Fee in the manner and amount set forth in this Section.

D. Computation of the Amount of Fire Protection Impact Fee.

1. At the option of the Developer, the amount of the Fire Protection Impact Fee may be determined in accordance with the following Fee schedule:

<u>USE</u>	<u>FEE</u>
Residential	\$1,071.00/dwelling unit
Commercial, except temporary and extended stay lodging facilities	\$535.00/1,000 Sq. Ft.
Industrial	\$535.00/1,000 Sq. Ft.
Temporary and extended stay lodging facilities	\$1,339.00/1,000 Sq. Ft.

- a. Fees for commercial and industrial uses are calculated by dividing the total square footage by 1,000 and multiplying the above fee amount. Example: Retail store of 3,600 square feet divided by 1,000 = 3.6 x \$475.00 = \$1,710.00 Fire Protection Impact Fee owed.
- b. If the approval requested is for mixed uses, then the Fee shall be determined through using the applicable schedule by apportioning the space committed to uses specified on the schedule.
- c. For applications for an amendment or change to an approval previously obtained, but not constructed, the amount of the Fee is the difference between the Fee now applicable and any amount previously paid pursuant to the Section.
- d. In the case of a change of use, redevelopment, expansion or modification of an existing use which requires a Development Approval, the Fire Protection Impact Fee shall be based upon the net positive increase in the Fee for the new use as compared to the previous use.
- e. In the event the amount of the Fee cannot be calculated at the time of Subdivision Final Plat approval because the subdivision contains nonresidential development and the specific type of uses and the floor area for such uses are unknown, the Town may elect to defer computation and payment of the Fee until approval of Development Permits within the subdivision, or the Town may require that an estimated Fee be paid. If an estimated Fee is paid, any underpayment shall be recovered at the time of Development Permit approval. In the event an over-payment is made, such overpayment shall be refunded, without interest, within thirty (30) days following the date the Fire Protection Impact Fee can be completely computed for the subdivision.

2. If the Developer elects not to have the Fire Protection Impact Fee

determined in accordance with subsection (D) (1) above, the Developer shall prepare and submit to the Town Planner a site-specific fiscal impact and fee calculation study for the Land Development Activity for which approval is requested. The site-specific fiscal impact and fee calculation study shall follow the prescribed methodologies and formats established by the Town Planner following consultation with the Greater Eagle Fire Protection District. The fiscal impact study submitted shall show the basis upon which the site-specific fee calculation was made. The site-specific fiscal impact and fee calculation study shall be prepared and presented by professionals qualified in their respective fields. The Town Planner shall consider the documentation submitted by the Developer but is not required to accept such documentation he reasonably deems to be inaccurate or not reliable, and may, in the alternative, require the Developer to submit additional or different documentation for consideration. If an acceptable site-specific fiscal impact and fee calculation study is not presented, the Developer shall pay the Fire Protection Impact Fee based upon the schedule shown in subsection (D)(1) above. Determinations made by the Town Planner pursuant to this paragraph may be appealed to the Board of Trustees by filing a written request with the Town Manager within ten (10) days of the Town Planner's determination. Following the submittal of such request, the Town Board shall hold a public hearing to determine the amount of the Fire Protection Impact Fee which shall be paid prior to the approval of the proposed Land Development Activity.

E. Time for Payment Fee.

A Developer requesting subdivision approval shall pay the Fire Protection Impact Fee required by this Section prior to the recording of a Final Plat, except as otherwise provided in this Section for nonresidential subdivisions. A Developer requesting approval of a Planned Unit Development shall pay the Fire Protection Impact Fee prior to the approval of the Development Plan. A Developer requesting issuance of a Development Permit or Special Use Permit shall pay such Fee prior to the issuance of the Permit.

F. Use of Funds.

1. All fees collected pursuant to this Section shall be transferred to the Greater Eagle Fire Protection District within sixty (60) days following payment to the Town in accordance with an intergovernmental agreement between the Town and the Greater Eagle Fire Protection District. All funds collected pursuant to this Section shall be accounted for in the manner required by Section 29-1-801, *et.seq.*, C.R.S., and other applicable law.
2. Funds collected from the payment of Fire Protection Impact Fees shall be used for the purpose of land acquisition and Capital Improvements to, and the expansion of, fire protection services. Fire Protection Impact Fee revenues shall be used exclusively for additional Capital Improvements or expansions of such improvements with and for the benefit of the Greater Eagle Fire Protection District. Funds shall be expended in the

order in which they are collected.

3. No funds shall be used for periodic or routine maintenance, personnel costs or operational expenses.
4. In the event that bonds or similar debt instruments are used for the advanced provision of Capital Improvements for which Fire Protection Impact Fees may be expended, such Fee revenue may be used to pay debt service on such bonds or similar debt instruments to the extent that the improvements provided are of the type described in paragraph 2 of this subsection.
5. The Town shall be entitled to retain up to one percent (1%) of the Fire Protection Impact Fees it collects as an administrative fee to offset the cost of administering this Section.

G. Refund of Fees Paid.

1. If a Development Approval expires without commencement of construction or development, the Developer shall be entitled to a refund, without interest, of the Fire Protection Impact Fee paid as a condition for its issuance, except that the Town shall retain one percent (1%) of the Fee to offset a portion of its costs of collection and refunding. The Developer must submit an application for such refund to the Town Manager within thirty (30) days of the expiration of the Development Approval granted.
2. Any funds not expended or encumbered by the end of the calendar quarter immediately following ten (10) years from the date the Fire Protection Impact Fee was paid by a Developer shall, upon application of the then current landowner, be returned to such landowner with interest at the legal rate, provided that the landowner submits an application for a refund to the own Manager within 180 days of the expiration of such ten (10) year period. Provided, however, the Greater Eagle Fire Protection District may, for good cause shown, request the Town to extend the ten (10) year period of time specified in this paragraph. Such request shall be made at a public hearing held by the Board of Trustees. The Board, in its discretion, for good cause shown, may extend such period of time for an additional period as the Town Board deems reasonable and necessary.

H. Credit for Improvements.

Upon approval by the Town Board, any Developer obligated to pay a Fee as set forth in this Section shall receive a credit against the amounts due or to become due for fire protection Capital Improvements installed, purchased and paid for by such Developer when such fire protection Capital Improvements are in addition to those required under this Title.

I. Exemption from Payment of Fee.

The Board of Trustees may, by resolution, grant an exemption from all or any

part of the Fire Protection Impact Fee required by this Section upon a finding that such waiver is in the best interest of the public by encouraging activities that provide significant social, economic or cultural benefits. Whenever a Fire Protection Impact Fee is waived, the Town Board shall direct that the waived Fee be paid by the Town's general fund or other appropriate fund to the Greater Eagle Fire Protection District.

J. Unpaid Fire Protection Impact Fee-Lien.

All Fire Protection Impact Fees shall constitute a lien upon each lot or parcel of land within a development from the due date thereof, as set forth in this Section until paid. If such Fee is not paid when due, in addition to any other means provided by law, the Town Clerk shall certify such delinquent Fee to the Treasurer of Eagle County and the Fee shall be collected in the same manner as though it were part of the taxes. The Town reserves the right to withhold or revoke any permits, certificates or other approvals granted to any Developer who is delinquent in the payment of Fire Protection Impact Fees.

K. Adjustment and Review of Fee.

The fee imposed by this Section and monies expended by the Greater Eagle Fire Protection District for Capital Improvements shall be reviewed and adjusted as follows:

1. The Fire Protection Impact Fee established in this Section shall be adjusted annually for inflation effective January 15 of each year with the first adjustment to occur on January 15, 2001. The adjustment shall be based upon the percentage change in the United States Bureau of Labor Statistics Consumer Price Index for Denver-Boulder, all items, all urban consumers, or its successor index.
2. The Town Manager shall, annually, in conjunction with the presentation of the Town's proposed budget, recommend any further adjustments to the Fee imposed by this Section, following consultation with the Greater Eagle Fire Protection District.

4.13.190 ASSURANCE FOR COMPLETION OF PUBLIC IMPROVEMENTS.

A. Public Improvements and Warranty.

The subdivision agreement or development permit shall set forth the plan, method and parties responsible for the installation of all required public improvements and shall make reasonable provision for the completion of said improvements in accordance with design and time specifications. All water lines, fire hydrants and other water distribution facilities, drainage structures, waste water lines, public streets and sidewalks, required parkland and openspace improvements, street lights and signs, survey monuments and other public improvements, as shown on the Concept Plan and accompanying plans and documents submitted to the Town, shall be installed and completed at the

expense of the developer. Said public improvements shall be designed and built in conformance with all Town design standards. The developer shall warrant any and all public improvements which are conveyed or dedicated to the Town, pursuant to the subdivision improvements agreement, for a period of one (1) year from the date the Town's Engineer certifies that the same conform with the approved specifications. Specifically, but not by way of limitation, developer shall warrant the following:

1. That the title conveyed shall be good and its transfer rightful;
2. Any and all facilities conveyed shall be free from any security interest or other lien or encumbrance; and
3. Any and all facilities so conveyed shall be free of any defects in materials or workmanship.

B. Inspections.

The Town shall have the right to make engineering inspections and required testing during construction of such public and private improvements in such reasonable intervals as the Town may request in accordance with the Towns Street Construction Regulations and Water Distribution Regulations. Inspection, acquiescence and approval of any engineering inspector of the construction of physical facilities, at any particular time, shall not constitute the approval by the Town of any phase of the construction of such public and private improvements. Such approvals shall be made by the Town only after completion of construction and in the manner hereinafter set forth.

C. Completion of Public Improvements.

Upon completion of construction by the developer of such public and private improvements, the Town Engineer shall inspect the improvements and certify with specificity its conformity or lack thereof to the specifications. The developer shall make all corrections necessary to bring the system into conformity with Town standards and the utility, drainage and street improvements plans and others, as approved. The Town shall be under no obligation to provide any water service or street maintenance until all such facilities are brought into conformance with the specifications and approved by the Town Engineer.

D. Related Costs - Public Improvements.

Developer shall provide all necessary engineering designs, survey's field surveys and incidental services related to the construction of the public improvements, at its sole cost and expense. The legal description of said utility service lines shall be prepared by a registered land surveyor at the developer's sole expense.

E. Improvements to be the Property of the Town.

All public improvements shall be dedicated to the Town of Eagle and warranted for a period of twelve (12) months following completion, as above provided. Upon completion of construction in conformity with the plans, and any properly

approved changes, developer shall convey to the Town, by bill of sale, all physical facilities necessary for the extension, maintenance and repair of municipal utility service. Acceptance of said conveyance shall be made by the Town only by a majority vote of the Board of Trustees.

F. Performance Guarantee.

In order to secure the construction and installation of the public improvements above-described and shown on developer's Concept Plan, Preliminary plan; utility, drainage, landscaping, park improvements, street improvement plans and other documents submitted to the Town, for which the Developer is responsible, the Developer shall furnish the Town with:

1. A certificate or other evidence, in good and sufficient form, approved by the Town Attorney of a performance bond or an irrevocable letter of credit to secure the performance and completion of the public and private improvements in an amount equal to 110% of the estimated costs of said facilities, or
2. Such other collateral as may be satisfactory to the Town Attorney. Such performance guarantee shall be provided within thirty (30) days following the effective date of the ordinance approving the subdivision, unless otherwise determined by the Town Board of Trustees.

The estimated cost of such improvements shall be a figure mutually agreed upon by the developer's engineer and the Town's Engineer. The purpose of such cost estimate is solely to determine the amount of security and may be revised from time to time to reflect the actual cost. No representation shall be made as to the accuracy of these estimates, and the developer agrees to pay the actual cost of all such public or private improvements.

Upon the developer's failure to perform its obligations hereunder, and as provided by any Subdivision Improvements Agreement, and in accordance with all plans, drawings, specifications and other documents submitted to the Town as approved, within the applicable time periods, the Town may give written notice to the developer and the surety on a performance bond or the issuer of an irrevocable letter of credit, that the Town, as agent for the developer, is proceeding with the task of installing the public or private improvements in the development in whole or in part. Upon this assumption by the Town, the surety or issuer of the irrevocable letter of credit shall be authorized to disburse funds, upon written request from the Town, showing the proposed payee and the amount to be paid. Copies of any such request shall be sent to the developer's last known address. Developer shall be given an opportunity to appear before the Town Board of Trustees concerning any such assumption by the Town, within thirty (30) days of the giving of such notice by the Town.

The Developer shall in writing designate and irrevocably appoint the Mayor of the Town as its attorney in fact and agent for the purpose of completing all public or private improvements required by Title 4 or any applicable Subdivision Improvements Agreement in the event of a default by the developer. If any legal proceedings are commenced by the developer concerning the Town's assumption

of the task of installing the public or private improvements, and if the developer does not prevail in said legal proceedings, the surety or issuer of the letter of credit as well as the Town shall be entitled to recover the reasonable attorney's fees incurred therein from the developer.

G. Building Permits for Construction of a Building.

1. Issuance of a Building Permit

The following improvements, as required in this Chapter, shall be installed and shall be approved by the Town Engineer prior to the issuance of a building permit for the construction of any building in the development:

- a. Permanent property corner monuments.
- b. Wastewater mains and service laterals to each lot and all necessary wastewater infrastructures to provide service to the subdivision (i.e., lift station).
- c. Water mains and service lines to each lot and all necessary water infrastructures to provide service to the subdivision.
- d. Fire hydrants.
- e. Storm drainage structures and conveyances, including associated erosion control devices as needed to prevent siltation of new or existing storm drainage facilities.
- f. Street paving with curb and gutter as required.
- g. Soil stabilizing structures.
- h. Final utilities, including telephone, cable television, electrical service and gas lines or as required by the subdivision improvements agreement or development permit.

H. Amended 11/27/07

2. Issuance of a Certificate of Occupancy

The following improvements, as required in this Chapter, shall be installed and shall be approved by the Town Engineer prior to the issuance of a certificate of occupancy:

- a. Sidewalks, bikeways and trails.
- b. Street lighting.
- c. Permanent soil stabilization and revegetation measures.
- d. Land dedication conveyances.

- e. Landscaping of common open spaces, park and recreation areas whether dedicated to the Town or to a homeowners association.
- f. Non-potable irrigation system, if applicable.
- g. All other required public or private improvements pursuant to the applicable subdivision improvements agreement or development permit and this Title.
- h. All other documents as required by the Town Planner.

Amended 11/27/07

3. Variance or Hardship.

In cases where strict application of the requirements of subsection 4.13.190.G.2 would place undue hardship on the applicant for a Certificate of Occupancy, he may provide security subject to approval by the Town Attorney and by the Town Administrator to cover the cost of completion of the required improvements and the maintenance of any incomplete street sections which might be involved. This security shall be to ensure the Town that the improvements are installed in the event that the applicant fails to install them as agreed. As improvements are completed, the applicant may apply to the Town Administrator for release of all or part of the security, which release shall also be subject to approval by the Town Engineer and the Town Attorney.

Amended 04/16/95

Amended 11/27/07