

CHAPTER 4.03

**GENERAL**

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4.03.010 PURPOSE

This Title is drawn in accordance with the Master Plan for the Town of Eagle and is designed for the purpose of promoting the health, safety and welfare of the present and future inhabitants of the community, including:

- A. Lessening congestion in the streets and reducing the waste of excessive amounts of roads,
- B. Securing safety from fire, flood and other dangers,
- C. Providing adequate light and air,
- D. Protection of the tax base,
- E. Securing economy in governmental expenditures,
- F. Fostering industries,
- G. Protecting both urban and non-urban development and conserving the value of property,
- H. Preventing the overcrowding of land and avoiding undue concentration of population,
- I. Separating incompatible uses and densities so as to avoid negative impacts of uses on each other,
- J. Providing for a variety of housing and neighborhood types and densities and a range of housing costs,
- K. Facilitating adequate provision of transportation, water, sewage, schools, parks and other public services and utilities,
- L. Avoiding the effects of public nuisances such as noxious odors, fumes, air pollution, visibility impairment, noise, and potential hazards such as fire, explosion, irradiation, chemical and nuclear pollution.

4.03.020 AUTHORITY

This Ordinance is authorized by Title 31, Article 23; Title 31, Article 12; Title 24, Article 67; and Title 29, Article 20; Colorado Revised Statutes as amended.

4.03.030 TITLE

This Ordinance shall be known and may be cited and referred to as the "Town of Eagle Land Use and Development Ordinance".

DEFINITIONS

In the construction of this Title, the following definitions shall apply, unless the context clearly indicates that a different meaning was intended by the Town Board. For words not defined, dictionary definitions shall apply.

Accessory Apartment to Owner-occupied Single-Family Dwelling: An individual dwelling unit subordinate to, and contained within or adjacent to, a single-family dwelling.

Accessory Building or Structure: A detached subordinate building located on the same lot as the principal building, the use of which is incidental and subordinate to and customarily associated with the principal building or use of the lot.

Accessory Use: A use subordinate to and customarily associated with the use of the lot.

Adjacent Land: A piece of real property which shares any common property line or point.

Alley: A public right-of-way providing only secondary access to the rear of a property and not intended for general travel.

Bed and Breakfast Facility: An owner-occupied, single-family residential dwelling unit that contains no more than three (3) guest bedrooms where overnight lodging, with or without meals, is provided for compensation. Kitchen and dining facilities serve only residents and guests and are not operated or used for any commercial activity other than that necessary for bed and breakfast purposes.

Board, Town Board or Town Board of Trustees: Board of Trustees of the Town of Eagle.

Building: Any permanent structure built for the shelter or enclosure of persons, animals, chattels or property of any kind, not including a mobile home as defined herein, a porch, deck, fence, retaining wall or similar non-enclosed structure.

Building Envelope: Lines enclosing a horizontal space in which a building is to be constructed, which lines indicate the maximum exterior dimensions of the proposed building but which do not necessarily depict the shape of the exterior walls of the building.

Building Height: The maximum distance possible measured vertically from undisturbed natural ground level to the roof ridge or any other part of a building. Building height shall be no greater than 35'-0". Maximum height is to include all mechanical equipment, ornamentation, and penthouses. Maximum building height shall be measured in feet; height shall be measured at the vertical distance between finished grade (including finished grade of a basement with direct, at grade walk-out access) to the top of the highest roof beams on a flat or shed roof, or the average distance between the eaves and the apex of a gable, hip, or gambrel roof.

Building Lot: A lot which meets the applicable zone district requirements for construction of a building in the zone district, and upon which one principal building may sit.

Canopy: A permanent roof-like structure affording shelter or shading and constructed of a durable material such as metal, glass, rigid plastic, or canvas.

Child Care Facility: A facility for child care in a building which is maintained for the whole or part of a day for the care of seven or more children under the age of sixteen years and not related to the owner, whether such facility is operated with or without compensation for such care and with or without stated education purposes. The term shall include facilities commonly known as "day care centers", "day nurseries", "nursery schools", "kindergartens", "pre-schools", "play groups", "day camps", "summer camps", "centers for mentally retarded children" and any facilities which give twenty-four-hour care for dependent and neglected children. The term shall include those facilities for children under the age of six years with stated educational purposes operated in conjunction with a public, private, or parochial college or a private or parochial elementary school system of at least six grades. The term "kindergarten" shall mean any facility providing an educational program for children only for the year preceding their entrance to the first grade, whether such facility is called a kindergarten, nursery school, pre-school, or any other name.

Collector or Collector Street: A street so designated in the Town's Major Street Plan which is designed to facilitate movement of traffic from local streets to arterial streets.

Commission or Planning Commission: The Planning and Zoning Commission of the Town of Eagle.

Common Open Space: Open areas of land or water or a combination thereof within a development designed and intended primarily for the use and enjoyment of residents, owners, employees or customers of the development.

Condominium Unit: An individual air space unit consisting of any enclosed room(s) occupying all or part of a floor(s) in a building of one or more floors used for residential, professional, commercial, or industrial purposes together with the interest in the common elements appurtenant to that unit.

County: Eagle County, Colorado

Development: Construction of a building(s) or structure(s) within a contiguous land area or establishment of a mobile home park or RV park by laying out mobile home sites or campsites for the purpose of sale, rent or lease.

Development Permit: A permit issued by the Town which certifies that a proposed development has undergone and completed the required development review procedures and which confers permission to apply for a building permit. The development permit may include one or more conditions, which conditions shall apply to any future development of the land, regardless of ownership changes, unless a new development permit is obtained.

Dwelling: A building or portion thereof or a mobile home used for residential occupancy, not including motels, hotels, or other overnight lodging accommodations.

Dwelling, High-Density Multiple-Family: One building containing three or more dwelling units, allowed as a Special Use at a density as set forth in Chapters 4.04 and 4.05, provided certain other conditions or standards are met, as set forth therein.

Dwelling, Multi-family: One building containing three or more dwelling units.

Dwelling, Single-family: One building containing only one dwelling unit.

Dwelling, Two-family: One structure containing two dwelling units sharing a common wall(s) which comprises at least 10% of the linear measurement around the perimeter of each unit.

Dwelling Unit: One or more rooms designed to be occupied by one family living independently of any other family and having no more than one kitchen facility, including a mobile home.

Easement: An ownership interest in real property entitling the holder thereof to use, but not possession, of that real property.

Face of Sign: The entire area or combination of areas of a sign on which a message is placed.

Family: One or more persons living together in a dwelling unit, which shall not include more than four persons unrelated by blood, marriage, or adoption.

Floor Area: The total gross horizontal area of all floors in a building.

Floor Area Ratio: The relationship of the floor area of a building to the total lot area.

Frontage or Property Frontage: The entire length of the boundary line of any one tract of real property adjacent to a public right-of-way.

Gross Area: The horizontal area within the exterior boundaries of the subject property including any streets and required improvements, easements, reservations or dedications.

Group Home: A residential facility housing a maximum of eight (8) persons, sixty (60) years or older; or housing eight (8) clients or patients with physical or mental disabilities; or housing eight (8) persons released from incarceration and under the supervision of a law enforcement agency or the criminal justice system, plus appropriate staff, for supervision and training, health care and/or counseling are provided by a public or private organization.

Height of Sign: The vertical distance measured from ground level to the top of the sign measured at its highest point above undisturbed natural ground level.

High Water Mark: Waterline at the point of high discharge with a recurrence interval of 10 years.

Home Occupation: Any use for gain or compensation carried on within a dwelling in accordance with the provisions of the Title.0

Indoor Recreation Facility: A for profit establishment that provides opportunities for amusement and/or recreation where such activities are conducted within an enclosed structure; including but not limited to bowling alleys, skating rinks, health and fitness clubs, private gymnasiums, pool halls, and video game arcades. The term “indoor recreation” shall not include shooting ranges. (Ord. 12-2016 §2 4/26/2016)

Landscaping, Landscaped Area, Landscape Materials: As defined in Chapter 4.07.

Licensed Marijuana Premise: the premises specified in an application for a license pursuant to the Colorado Medical Marijuana Code or Colorado Retail Marijuana Code that are owned or in possession of the Marijuana Licensee and within which the Marijuana Licensee is authorized to cultivate, manufacture, distribute, sell, or test Medical or Retail Marijuana in accordance with the provisions of the Town of Eagle Municipal Code, Colorado Medical Marijuana Code and/or Colorado Retail Marijuana Code. (Ord. 26-2016 §1 10/9/2016)

Lodging, Extended Stay: To be supplied by Town Attorney: Overnight sleeping accommodations which are managed with the intent of providing extended stay occupancy, generally more than three (3) weeks, to fee paying transients. Extended stay lodging accommodations may be leased on a daily or week to week basis only, and no transient is permitted to reside in an extended stay lodging accommodation for more than 150 days within a consecutive 12 month period.

Lodging, Temporary: Overnight sleeping accommodations which are managed with the intent of providing short term occupancy, generally less than three weeks, to fee paying transients.

Lot: A piece, plot or parcel of land or assemblage of contiguous parcels of land as established by survey, plat or deed.

Lot Area: The total horizontal land area within the boundaries of a lot.

Lot Coverage: Lot or site coverage means the portion of a lot or site covered by materials forming any unbroken surface impervious to water, including:

1. Buildings, decks, patios, structures
2. Streets, driveways, parking lots, and other impervious materials.

Lot Line, Front: The property line of a lot dividing said lot from the adjoining street. On a corner lot the property owner may elect which street frontage shall be the designated front lot line for the purpose of determining the rear yard only.

Lot Line, Rear: The property line of a lot opposite the front lot line.

Lot Line, Side: Any lot property line other than a front or rear lot line.

Major Street Plan: An advisory planning document officially adopted by resolution of the Town Board, which document classifies existing and proposed streets according to size and use.

Marijuana: Marijuana shall have the same meaning as set forth in Section 16(2)(f) of Article XVIII of the Colorado Constitution.

Marijuana Accessories: Marijuana Accessories shall have the same meaning as set forth in Section 16 (2)(g) of Article XVIII of the Colorado Constitution.

Marijuana Licensee: Any person licensed or registered pursuant to the Colorado Medical Marijuana Code and/or Colorado Retail Marijuana Code. (Ord. 26-2016 §1 10/9/2016)

Marijuana Testing Facility: A public or private laboratory licensed and certified, or approved by the State of Colorado Marijuana Enforcement Division, to conduct research and analyze Medical and/or Retail Marijuana, Medical and/or Retail Marijuana Infused Products, and Medical and/or Retail Concentrate for contaminants and potency. (Ord. 26-2016 §1 10/9/2016)

Medical Marijuana Business or Medical Marijuana Establishment: A medical marijuana center, an optional medical marijuana cultivation premises, a medical marijuana infused products manufacturer, or a medical marijuana testing facility. (Ord. 26-2016 §1 10/9/2016)

For the purpose of this definition, a patient that cultivates, produces, possesses or transports medical marijuana, or a primary caregiver that cultivates, produces, sells, distributes, possesses, transports, or makes available marijuana in any form to one or more patients shall not be deemed a “Medical Marijuana Business.” (Ord. 17-2012 §2, 2012; Amd. Ord. 26-2016 §1 10/9/2016)

Manufactured Home: A single-family dwelling which is partially or entirely manufactured in a factory and designed for long-term residential or nonresidential use and transported to its occupancy site; and is not less than twenty-four feet in width and thirty-six feet in length; and is installed on an engineered permanent foundation; and has brick, wood, or cosmetically equivalent exterior siding and a pitched roof; and is certified pursuant to the "National Manufactured Housing Construction and Safety Standards Act of 1974" 42 U.S.C. 5401 et. seq. as amended and bears such certification label.

Mobile Home: A structure manufactured partially or entirely in a factory, designed for long-term residential use and transported to its occupancy site, which is twelve (12) feet or more in width, is a minimum of 600 square feet and constructed in accordance with the National Mobile Home Construction and Safety Standards Act of 1974 and is licensed by the Colorado Department of Motor Vehicles as a Mobile Home.

Mobile Home Lot: An area of ground intended to accommodate one mobile home, the mobile home pad, a minimum of two parking spaces, a storage shed, utility connections, and openspace.

Mobile Home Lot, Single Wide: A mobile home lot intended to accommodate a mobile home which may not exceed 16 feet in width.

Mobile Home Lot, Double Wide: A mobile home lot intended to accommodate one mobile home which has been transported and placed in two sections forming one whole and which is generally 24 feet in width.

Mobile Home Pad: An area of land in the mobile home space on which a mobile home and appurtenant structures directly sits.

Mobile Home Subdivision: A mobile home park which meets the requirements of Chapter 4.09 and in which individual lots are sold separately, with or without common ownership in the areas outside the mobile home spaces. Pursuant to Chapter 4.11, every mobile home subdivision shall be designed as and meet all requirements for Planned Unit Development.

Outside Storage: Items including, but not limited to, vehicles, excavation equipment, machinery, utility service supplies, fabrication materials, and general supplies which are stored outside on a regular, permanent, semi-permanent, or seasonal basis and which occupies more than 1,000 square feet on any one lot.

Owner of Record: The owner of real property within the Town of Eagle as recorded by the County Clerk of Eagle County.

Parking Area: The total square footage within a contiguous area provided for parking, including driveways, access ways, turnaround space, areas of landscaping, snow storage areas, and other ancillary space in addition to actual vehicle parking spaces.

Phasing: A plan for construction of a development in portions over time, which time ranges shall be specified in the development permit.

Planning Commission: The Planning and Zoning Commission of the Town of Eagle.

Planned Unit Development: An area of land, controlled by one or more landowners, to be developed under unified control or unified plan of development for a number of dwelling units, commercial, educational, recreational, or industrial uses, or any combination of the foregoing, the plan for which does not correspond in lot size, bulk, or type of use, density, lot coverage, open space, or other restriction to the existing Land Use Regulations.

Plat or Subdivision Plat: A map and supporting materials of certain described land, prepared in accordance with applicable regulations as an instrument for recording of real estate interests with the County Clerk and Recorder.

Print Shop: A retail establishment that provides duplicating services using offset printing equipment.

Proof of Ownership: A notarized affidavit executed by fee simple title holder.

Recreational Vehicle: A vehicular-type unit designed primarily as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle, and which is licensed in any state as a recreational vehicle, travel trailer, camping trailer, truck camper, motor home, or similar title.

Retail Marijuana: Retail Marijuana shall have the same meaning as defined in Section 16 (2)(f) of Article XVIII of the Colorado Constitution, that is cultivated, manufactured, distributed, or sold by a licensed retail marijuana establishment.

Retail Marijuana Business or Retail Marijuana Establishment: Retail Marijuana Business or Retail Marijuana Establishment means a retail marijuana store, a retail marijuana cultivation facility, a retail marijuana products manufacturer, or a retail testing facility.

Retail Marijuana Cultivation Facility: Retail Marijuana Cultivation Facility shall have the same meaning as “marijuana cultivation facility” as defined in Section 16 (2)(h) of Article XVIII of the Colorado Constitution that is licensed pursuant to the Colorado Retail Marijuana Code, Sections 12-43.4-101 *et. seq.*, C.R.S.

Retail Marijuana Products: Retail Marijuana Products means “marijuana products” as defined in Section 16 (2)(k) of Article XVIII of the Colorado Constitution that are produced at a retail marijuana products manufacturer.

Retail Marijuana Products Manufacturer: Retail Marijuana Products Manufacturer has the same meaning as a “marijuana product manufacturing facility” as defined in Section 16 (2)(j) of Article XVIII of the Colorado Constitution that is licensed pursuant to the Colorado Retail Marijuana Code, Sections 12-43.4-101 *et. seq.*, C.R.S.

Retail Marijuana Store: Retail Marijuana Store shall have the same meaning as defined in Section 16(2)(n) of Article XVIII of the Colorado Constitution that is licensed pursuant to the Colorado Retail Marijuana Code, Sections 12-43.4-101 *et. seq.*, C.R.S.

Retail Marijuana Testing Facility: Retail Marijuana Testing Facility shall have the same meaning as a “marijuana testing facility” as defined in Section 16(2)(l) of Article XVIII of the Colorado Constitution that is licensed pursuant to the Colorado Retail Marijuana Code, Sections 12-43.4-101 *et. seq.*, C.R.S.

Self-Service Storage Facility: A building consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods or contractor’s supplies.

Service Bay: An interior space designed for the repair of vehicles and which has unrestricted ingress and egress.

Service Establishment: Service Establishment: A commercial business that primarily renders personal or commercial services rather than the sale of goods as the principal use of the property such as for example printing, copying, hairdressing, shoe repair, appliance repair, upholstering, roofing, plumbing, janitorial services, etc. Activities incidental to the primary service business are permitted as accessory uses. (Amend. Ord. 31-2015; §1-10/27/2015)

Setback: The minimum dimension of a required yard.

Shooting Range: A facility designed and used for the purpose of discharging firearms. (Ord. 12-2016 §2 4/26/2016)

Sign: The term "sign" shall include any writing, letter, word, numeral, pictorial representation, pictorial abstraction, graphic or pictorial form, emblem, symbol, trademark, object or design which conveys a recognizable meaning or identity or distinction; or any of the above which forms a structure or part of a structure or which is

affixed in any fashion to any structure and which by reason of the form or color or wording or stereotyped design or other feature attracts or is designed to attract attention to the subject matter or is used as a means of identification or advertisement or announcement.

The term "sign" shall not include:

1. Flags, not to exceed 24 square feet in size, of governments or fraternal, religious, civic, or educational organizations and institutions except when used in connection with a commercial promotion or to advertise a commercial product, services, business, activity, condition, or person.
2. Placards, banners, pennants, pictures, bottles, or any other devices incorporated in a temporary window display.
3. Works of art which in no way identify a product or business and which are not displayed in conjunction with a commercial, for-profit, enterprise.
4. Temporary decorations or displays directly incidental to and customary and commonly associated with national, local or religious holiday celebrations.
5. Official traffic control devices and other official signs and devices of any public or governmental agency.

Sign Area: Sign area shall be measured by determining the total area of the face of a sign within the outermost edge or border of the face. The computation of freestanding letters not attached to a surface or plane shall be made by determining the area enclosed within the smallest geometric figure needed to completely encompass all of the letters, words, insignias, or symbols.

Sign, Flat Wall: A sign attached to or erected against a wall of a building, with the face parallel to the building wall.

Sign, Freestanding: A sign affixed directly to the ground or erected on a freestanding frame, mast or pole, which is affixed to the ground and not attached to any building.

Special Review Use: A use which may be allowed in a specified zone district only upon review and approval by the Planning Commission and Town Board and which may be allowed subject to certain conditions as established by the Planning Commission and Town Board.

Street, Private: A designated right-of-way, other than an alley, which provides primary vehicular access to adjacent property.

Street, Public: A dedicated public right-of-way, other than an alley, which provides primary vehicular access to adjacent property.

Subdivision: Any parcel of land which is to be used for condominiums, apartments, or any other multiple-dwelling units, unless such land was previously subdivided and the filing accompanying such a subdivision complied with municipal regulations applicable to subdivisions of substantially the same density, or the division of a lot, tract, or parcel of

land into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale or of building development. It includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. Unless one of the following is accomplished with the purpose of evading the existing provisions of this Title, the term “subdivision” or “subdivided land” shall not apply to any division of land:

1. Which is created by order of any court in this State or by operation of law, so long as the Town is notified of any such court action; or
2. Which is created by a lien, mortgage, deed of trust, or other security instrument;
3. Which is created by a security or unit of interest in any investment trust regulated under the laws of this State or any other interest in an investment entity; or
4. Which creates cemetery lots; or
5. Which creates an interest in oil, gas, minerals or water which is severed from the surface of real property; or
6. Which is created by the acquisition only of an interest in land in the name of a husband and wife or other persons in joint tenancy or as tenants in common; any such interest shall be deemed for the purposes of this Section as only one interest; or
7. The dedication, conveyance or vacation of land to or from the Town for right-of-way or other public uses or purposes. (Amended, 11-2015 § 1, 2015)

Theater: A facility designed and used for the viewing of movies and/or live performances of musicians or other performing artists. (Ord. 12-2016 §2 – 4/26/2016)

Town: The Town of Eagle.

Town Board; Board; Board of Trustees: The Board of Trustees of the Town of Eagle.

Town's Goals, Policies and Plans: Those policies, goals, objectives and plans which have been formally adopted by the Planning Commission and/or Town Board, including but not limited to the following: The Master Plan approved January 22, 1985; The Community Beautification Master Plan, and the Major Street Plan.

Townhouse: A unit together with the lot appurtenant thereto held in fee simple ownership sharing a common wall(s) with another townhouse(s) which comprises at least 10% of the linear measurement around the perimeter of the unit.

Town Planner: The person designated by the Town Administrator who is responsible for all current planning activities, including administration and enforcement of Title 4 of the Eagle Municipal Code, as well as certain long range planning activities and community development projects. The Town Planner serves as staff person to the Eagle Planning Zoning Commission and also performs such other duties and functions as the Board of Trustees or the Town Administrator may assign from time to time. The Town Planner serves under the authority, direction and supervision of the Town Administrator. The

Board of Trustees may authorize the Town Administrator to serve in the capacity of Town Planner, in which case such person serves under the authority, direction and supervision of the Board of Trustees.

Useable Open Space: Open area of a lot designed and developed for uses including, but not limited to recreation, courts, gardens, parks, and landscaping, which open space may include a maximum of 20 percent of non-living materials such as walks, decks, terraces, water features and decorative rock.

Yard: An open space other than an interior court unobstructed from the ground upward, except as otherwise provided in the Title.

Yard, Front: A yard extending the full distance of the building lot, the depth of which is measured in the least horizontal distance between the front lot line and the nearest wall of the principal building, such distance being known as the front yard setback.

Yard, Rear: A yard extending the full distance of the building lot, the depth of which is measured in the least horizontal distance between the rear lot line and the nearest wall of the principal building, such depth being known as the rear yard setback.

Yard, Side: A yard extending from the front yard to the rear yard, the distance of which is measured in the least horizontal distance between the side lot line and the nearest wall of the principal building.

Amended 06/02/91  
Amended 11/21/93  
Amended 04/17/97  
Amended 02/13/00  
Amended 10/22/13  
Amended 01/14/14  
Amended 04/28/15  
Amended 10/27/15  
Amended 04/26/16

4.03.050 APPEAL OF ADMINISTRATIVE DECISION

Any person aggrieved by his inability to obtain a building permit or by the decision of any administrative officer or agency based upon or made in the course of the administration or enforcement of this Chapter may make an appeal to the Planning & Zoning Commission. Appeals to the Planning & Zoning Commission may also be made by any officer, department, board or bureau of the Town. Such appeal shall be made within 15 days of the decision from which the appeal is made by filing with the Town Administrator a written notice of appeal, specifying the grounds therefore. Such appeal shall be made in accordance with 31-23-307, Colorado Revised Statutes as amended.

4.03.060 PUBLIC NOTICE

- A. For every public hearing required by this Title, the Town shall notify the public of the date, time and place of such hearing by:
1. Publication once in a newspaper published within the Town, prior to the hearing by a minimum of the number of days set forth below; and
  2. Delivering notice by first class mail, except Subdivision review which shall be by certified mail, to those landowners entitled to such notice, as

set forth below; and

3. Posting notice at the Eagle Town Office, 200 Broadway, Eagle at least five days prior to the hearing.

<u>REVIEW</u>	<u>MAIL NOTICE TO OWNERS OF</u>	<u>PUBLICATION/MAILING DEADLINE</u>
Subdivision	Subject land and minerals (& lessees), adjacent land*	15 days prior
Zoning Variance	Adjacent land	15 days prior
Special Use	Land within 250' *	15 days prior
Rezoning, Zoning Amendment	Land within 250' *	15 days prior
PUD Zoning Plan	Land within 250' *	15 days prior
Development Permit (minor)	Adjacent land	15 days prior
Development Permit (major)	Land within 250' *	15 days prior
PUD Amendment	All property owners in PUD and property owners abutting the PUD when revisions would affect PUD boundary property.	15 days prior
Site Specific Development Plan (other than those specified above)	Land with 250' *	15 days prior

\* In determining owners of adjacent land or owners of land within 250', public and private rights-of-way shall not be considered.

- A. The applicant shall be responsible for the accuracy of the list of names and addresses of owners as they appear in the records of the Eagle County Clerk and Recorder.
- B. When a proposed amendment to the zone district regulations pertains to an entire zone district or all zone districts, notice shall be given pursuant to A.1 and A.3 above.
- C. Major Activity Notice

When a subdivision or commercial or industrial activity is proposed which will cover five or more acres of land, the Town of Eagle shall send notice to the state

geologist and the Board of County Commissioners of the proposal prior to approval of any zoning change, development permit, subdivision or building permit application associated with such a proposed activity.

Amended 06/02/91  
Amended 11/21/93  
Amended 04/16/95  
Amended 04/25/17

4.03.070 REVIEW PROCEDURES - GENERAL

- A. Unless otherwise provided in this Title, the Town Planner shall certify that any application or other submittal permitted by this Title is complete or incomplete within ten (10) days following the receipt of said application or other submittal. In the event the Town Planner deems the application or other submittal to be incomplete, the Town Planner shall promptly notify the applicant in writing specifying the additional information required.
- B. Unless otherwise provided in this Title, the Planning Commission shall review any application or other submittal, and hold a public hearing thereon if required, no later than 45 days following certification by the Town Planner that the application or other submittal is complete. Any public hearing may be continued by the Planning Commission until its next regularly scheduled meeting, if deemed necessary. The Commission shall render its decision and/or recommendation on the application or submittal no later than fifteen (15) days following the conclusion of the public hearing or presentation by the applicant. Unless the Commission's decision or recommendation is issued in the presence of the applicant, such decision or recommendation shall be in writing and mailed to the applicant.
- C. Unless otherwise provided in this Title, the Town Board shall review any application, submittal or appeal, and hold a public hearing thereon, if required, no later than thirty (30) days following the issuance of a decision or recommendation of the Planning Commission. Any public hearing may be continued by the Town Board, if deemed necessary. The Town Board shall consider the recommendations of the Planning Commission, if any, and the comments, testimony and other evidence presented at the public hearing and either approve or affirm the application, other submittal, or appeal, approve or affirm the application, other submittal or appeal with conditions, or deny the application, other submittal or appeal. The Town Board shall render its decision on the application, submittal or appeal no later than fifteen (15) days following conclusion of the public hearing, or if no public hearing is required, fifteen (15) days following consideration of the submittal. Unless the Board's decision is issued in the presence of the applicant, said decision shall be in writing and mailed to the applicant.
- D. The time limits set forth in this Section may be extended by the applicant at any time.
- E. A summary of the review procedures required by this Title is contained in Appendix "M". However, an applicant should not rely solely on such summary and should consult the applicable sections of the Title and Chapter 2.20 of the Municipal Code for additional detailed information regarding review procedures,

fees, public notice and hearings, and deadlines for submittal of applications and action by the reviewing authority.

Amended 06/02/91  
Amended 04/20/96  
Amended 05/08/07

4.03.080 REVIEW FEES

- A. Application filing fees shall be set by the Board of Trustees by Resolution from time to time and shall include a portion of the cost of Town staff time. The application fees shall be paid in full at the time of the filing of the application and unless paid the application shall not be deemed to be complete. The fees paid shall not be refundable in whole or in part for applications withdrawn by an applicant without the permission of the Town Manager, or their designee. The Town Manager may refund all or a portion of the fees depending on the amount of review and processing time already incurred by the staff.
- B. Concurrently with submittal of an application, the applicant shall meet with Staff and discuss all anticipated “pass through” costs that the applicant will be required to pay such as the cost of review by third party consultants engaged by the Town including review by engineers, surveyors, the Town Attorney, the Town’s water counsel, and water engineer. The applicant shall be billed by the Town for all actual costs for such attorney’s fees, consultant fees, engineering fees, surveying fees, mailing, copying and publication costs and any other fees incurred by the Town. The Town may withhold the recording of any Subdivision Final Plat or Development Plan or sign any Resolution or Ordinance until such “pass through” fees are paid in full. In addition, any Ordinance or Resolution approving an application shall not become effective until such fees are paid.
- C. All land use application fees and other costs authorized by Title 4 of the Eagle Municipal Code, and all actual review costs, including but not limited to, the costs of outside Town consultants, engineers and the Town’s legal fees shall constitute a lien upon any lot, land, building or premises which is the subject of a land use application until fully paid. If said fees and costs are not paid when due, the Town Treasurer may certify the amount of the same to the Eagle County Treasurer to be placed on the tax list for the current year and to be collected in the same manner as other taxes are collected, with eighteen percent (18%) interest added thereto to defray the costs of collection in accordance with Section 31-20-105, C.R.S. All laws of the State of Colorado for the assessment and collection of general taxes, including the laws for the sale of property for taxes and redemption of the same, shall apply.

Amended 06/02/91  
Amended 04/16/95  
Amended 08/07/14  
Amended 03/24/15

4.03.090 APPLICABILITY

- A. Except as otherwise specifically provided, the provisions and requirements of this Title shall become effective on the effective date of this Title, and shall be applicable to all developments, subdivision or uses of land commenced within the Town after said date. Any Ordinance amending this Title shall become effective thirty (30) days following publication unless otherwise specified in said Ordinance and shall be applicable to all developments, subdivision or other uses of land commenced within the Town after said date.
- A. Any development, subdivision or use of land for which an application has been filed and application fees have been paid prior to the effective date of this Title or

may follow this Title as of the date such action was commenced or, at the option of the applicant, may follow this Title as amended.

- C. Any land which has been subdivided prior to the effective date of this Title and for which there has been no development review or other review substantially similar to the development review shall be subject to those provisions of this Title applicable to development.
- D. Except as otherwise provided herein, the provisions and requirements of this Title shall be deemed minimum requirements and stricter provisions may be imposed when the Planning Commission or Town Board find such provisions to be necessary to promote the purposes and provisions of this Title.
- E. The number of copies of submittals required may be increased or decreased by the Town Planner as he deems necessary to promote the purposes and provisions of this Title.
- F. Upon submittal of an application as provided in this Title, the applicant expressly accepts the time schedules for review as set forth herein and waives any right to any other time schedule for review.
- G. If any provision of this Title conflicts with other provisions of the Municipal Code, the provisions of this Title shall control and take precedence.

Amended 04/16/95

#### 4.03.100

#### ENFORCEMENT

- A. After the effective date of this Title, it shall be unlawful for any person to erect, construct, reconstruct, use or alter any building or structure or to use any land in violation of this Title. Any person who violates any provision of this Title shall be deemed guilty of a criminal offense. Each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Title are committed, continued or permitted and shall be subject to a fine of up to \$300.00 and imprisonment for up to 90 days for each offense. Nothing in this Section shall be construed to prevent the Town from pursuing any other remedies it may have for violation(s) of this Title.
- B. In case any building or structure is proposed to be erected, constructed, reconstructed, altered, or used or any land is or is proposed to be used in violation of this Title, the Town, in addition to other remedies provided by law, may institute an appropriate action to prevent, enjoin, abate, or remove the violation to prevent the occupancy of the building, structure, or land, or to prevent any illegal act or use.
- C. Whenever necessary to make an inspection to enforce any provision contained in this Title or any condition or requirement of a permit or other land use approval issued pursuant to this Title, or whenever there is reasonable cause to believe that a violation of this Title or any permit or other land use approval issued pursuant to this Title exists in any building or upon any real property within the jurisdiction of the Town, the Town Planner, or his designee, or the Town's Code

Enforcement Officer may, upon presentation of proper credentials, enter such building or real property at all reasonable times to inspect the same or to perform any duty imposed upon him by the Eagle Municipal Code; provided, that if such building or real property is unoccupied, the authorized official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or real property and request entry. If entry is refused, or the owner cannot be located, the Town Planner, his authorized designee, or the Code Enforcement Officer is expressly authorized to obtain a search warrant from the Eagle Municipal Court pursuant to Rule 241(b)(2) of the Colorado Municipal Court Rules of Procedure in order to conduct the inspection.

Amended 06/02/91  
Amended 10/12/93  
Amended 03/16/95  
Amended 04/17/97  
Amended 11/13/12