

ARTICLE 1

GENERAL PROVISIONS - EAGLE COUNTY

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ARTICLE 1

GENERAL PROVISIONS

SECTION 1-100. TITLE AND SHORT TITLE

These regulations, constituting Chapter II of the Eagle County Land Use Regulations, are generally referred to in this chapter as "the Land Use Regulations" or "these Land Use Regulations."

SECTION 1-110. AUTHORITY

The Board of County Commissioners of Eagle County (hereinafter "County") has the authority to adopt these Land Use Regulations pursuant to the Colorado Constitution and Sections 24-65-101, et. seq., 24-65.1-101, et. seq., 24-67-101 et. seq., 29-1-801, et. seq., 29-20,101, et. seq., 30-11-101, et. seq., 30-20-101, et. seq., and 30-28-101, et. seq., Colorado Revised Statutes, and such other authorities and provisions that are established in the statutory and common law of the State of Colorado.

SECTION 1-120. PURPOSE

The purpose of these Land Use Regulations is to implement the Eagle County Master Plan and to protect and promote the health, safety, environment, and general welfare of the present and future residents of and visitors to Eagle County, while respecting private property rights. The reader of these Regulations should review the Eagle County Master Plan to obtain an overall understanding of the County's land use vision and the policies and actions the County plans to follow to achieve that vision.

SECTION 1-130. RULES OF CONSTRUCTION

This Section establishes rules that shall be observed and applied when interpreting the language of these Land Use Regulations, unless the context clearly requires otherwise.

A. Conflicting Provisions

- 1. More Versus Less Restrictive Provisions.** Where there exists a conflict or overlap between any provisions within these Land Use Regulations or between these Land Use Regulations and any other regulation adopted by Eagle County, the provision that is the more restrictive or particular shall prevail over that which is less restrictive or is general. If any provision used in these Land Use Regulations conflicts with any provision used in the Colorado Statutes, then the statutory provision shall govern.
- 2. Text Versus Table, Illustration, Graphic Depiction or Caption.** If a conflict or overlap arises between the provisions of the text of these Land Use Regulations and any table,

illustration, graphic depiction or the captions for any section or subsection, the provisions of the text shall prevail.

- 3. Private Agreements.** It is not the intent of these Land Use Regulations to interfere with, abrogate or annul any easement, covenant, deed restriction or other agreement between private parties. If the provisions of these Land Use Regulations impose a greater restriction than imposed by a private agreement, the provisions of these Land Use Regulations shall control; if the provisions of a private agreement impose the greater restriction, the provisions of the private agreement shall control. The County shall not be responsible for monitoring or enforcing private agreements.
- B. Exercise of Authority.** Whenever a provision appears requiring the Planning Director, or the head of any other County department to perform an act or duty, it shall be construed to authorize the Planning Director or the head of any other County department to designate, delegate and authorize subordinates to perform the duty or act, unless the terms of the provision or section specify otherwise.
- C. Computation of Time.** The time within which an act is to be done shall be computed by excluding the first and including the last day; if the last day is a Saturday, Sunday or legal holiday observed by Eagle County, that day shall be excluded.

 - 1. Day.** The end of a day shall be at 5:00 P.M., local time.
 - 2. Week.** The word "week" shall mean seven (7) days.
 - 3. Month.** The word "month" shall mean thirty (30) days.
 - 4. Year.** The word "year" shall mean three hundred and sixty-five (365) days.
- D. Fractions.** Whenever a fraction is generated in the computation of standards, such as the number of required parking spaces or the number of required trees or shrubs, the fraction shall be rounded up to the next highest whole number.
- E. Word Usage.**

 - 1. Tense.** Words used in the past or present tense include the future, as well as the past or present.
 - 2. Singular/Plural.** A word importing the singular number may extend and be applied to several persons and things as well as to one (1) person or thing. The use of the plural number shall include any single person or thing, unless the context clearly indicates the contrary.
 - 3. Shall/May/Should.** "Shall" means mandatory, "may" means permissive, and "should" means preferred.

4. **Masculine/Feminine.** The masculine gender shall include the feminine, and the feminine gender shall include the masculine.
 5. **Conjunctions.** Unless the context clearly suggests otherwise, conjunctions shall be interpreted as follows:

"And" means that all connected items, conditions, provisions or events apply; and

"Or" means that one or more of the connected items, conditions, provisions or events apply.
 6. **Common/Technical Terms.** Words and phrases shall be construed according to the common and approved usage of the term, but technical words and phrases which have acquired a particular meaning shall be understood according to such meaning.
- F. **Abbreviations.** The following abbreviations are used in these Land Use Regulations, and are intended to have the following meanings:
1. **CDO** means Colorado Division of Wildlife.
 2. **CFR** means Code of Federal Regulations.
 3. **cfs** means cubic feet per second.
 4. **CGS** means Colorado Geologic Survey.
 5. **C.R.S.** means Colorado Revised Statutes.
 6. **CSFS** means Colorado State Forest Service.
 7. **d.u.** means dwelling unit.
 8. **FLUM** means Future Land Use Map.
 9. **ft.** means feet.
 10. **max.** means maximum.
 11. **min.** means minimum.
 12. **m.f.** means multi-family dwelling unit.
 13. **mph** means miles per hour.
 14. **N/A or Not Applic.** means not applicable.

15. **No req.** means no requirement.
16. **psi** means pounds per square inch.
17. **Req.** means requirement.
18. **sq. ft. or s.f.** means square feet.

SECTION 1-140. APPLICABILITY

- A. **General Applicability.** The provisions of these Land Use Regulations shall apply to the development of all land in the unincorporated area of Eagle County, except as expressly and specifically exempted in these Land Use Regulations. No development within the unincorporated area of Eagle County shall occur without first obtaining the appropriate development permit pursuant to the provisions of these Land Use Regulations, unless expressly exempted herein.
- B. **Applicability to Governmental Entities.** The provisions of these Land Use Regulations shall apply to the development of land by all units and/or agencies of federal, state, county and municipal government and all special districts to the extent permitted by state and federal law.
- C. **Application of Regulations**
 1. Except as hereinafter provided:
 - a. No building or structure shall be erected nor shall any existing building or structure be moved, removed, altered or extended nor shall any open space surrounding any building or structure be encroached upon or reduced in any manner, except in conformity with the lot area, lot coverage, floor area ratio, setback and height provisions hereinafter provided in the district regulations for the district in which such land, building or structure is located;
 - b. No lot area, frontage, yard or other open space or parking space provided about any building or structure for purposes of compliance with provisions of this Resolution shall be considered as providing lot area, frontage, yard or other open space or parking space for any other building or structure on the same lot or on any other lot;
 - c. Uses permitted by these Regulations shall also be subject to provisions of other applicable County and State regulations except as specifically provided herein, and further, where the provisions of these Regulations impose a greater restriction than

required by such other regulation, the provisions of these Regulations shall be applied.

- d.** No building or structure shall be erected nor shall any existing building or structure be altered or extended on land falling within any one or more of the following categories:
- (1) All unplatted public or semipublic uses, regardless of current zoning classification;
 - (2) All unplatted lands zoned for multifamily;
 - (3) All unplatted lands zoned planned unit development;
 - (4) All unplatted lands zoned commercial;
 - (5) All unplatted lands zoned industrial;
 - (6) All previously platted lands which are, subsequent to the date of enactment hereof, rezoned to one of the zone district classifications set forth in these Land Use Regulations.

This subsection(d) shall not apply to:

- (1) single family construction not occurring in a planned unit development or subdivision;
- (2) parcels of 35 acres or larger which are not part of a planned unit development of subdivision;
- (3) uses approved through another county review process, such as, but not limited to special use and 1041;
- (4) statutory vacations;
- (5) dedications of easements and public ways.

Nothing contained in this application of Regulations shall be construed to prevent the Board on its sole discretion from granting an exemption from subdivision pursuant to the authority of Section 30-28-101(10)(d), C.R.S., or for land which is otherwise required to be platted pursuant to these Zoning and Subdivision Regulations.

2. These Regulations shall apply to the entire area of Eagle County outside the boundaries of incorporated municipalities or towns.

3. Approvals and permits for building construction, grading and infrastructure development shall be issued only as part of or after final plat approval. Provided that the applicant is actively pursuing the resolution of all issues associated with Final Plat, grading permits may be issued by the County Engineer following Preliminary Plan approval if all regulations regarding collateralization of restoration bonding requirements, as well as all grading and erosion control standards, as outlined in Section 4-660 and 4-665, are met.

SECTION 1-150. EXEMPTIONS: EFFECT OF THESE LAND USE REGULATIONS ON PREVIOUSLY APPROVED DEVELOPMENT

- A. **Existing Non-conforming Uses or Structures.** All uses or structures legally established and existing on (the effective date of these Land Use Regulations) that do not comply with these Land Use Regulations shall be considered pre-existing nonconforming uses or structures under the terms of these Land Use Regulations, and shall be permitted to continue to the extent provided in and subject to the provisions of Article 6, Nonconformities.
- B. **Legal Lots of Record** No further development permit shall be required for the sale or conveyance of any legal lot of record existing on (the effective date of these Land Use Regulations). Development of any legal lot of record existing on the effective date of these Land Use Regulations, however, shall be in conformance with all other provisions of these Land Use Regulations, including Article 6, Nonconformities.
- C. **Existing Building Permits and Variances.**
 1. **General.** The provisions of these Land Use Regulations shall not effect the validity of any building permit or variance permit that was validly approved prior to (the effective date of these Land Use Regulations).
 2. **Modifications.** Proposed modifications to any building permit or variance permit approved prior to (the effective date of these Land Use Regulations) shall be approved or disapproved in accordance with the standards set forth in Section 6-110.
- D. **Existing Special Use Permits.**
 1. **General.** The provisions of these Land Use Regulations shall not effect the validity of any Special Use Permit that was validly approved prior to (the effective date of these Land Use Regulations), if the development for which the permit was approved is commenced and diligently pursued from (the effective date of these Land Use Regulations), and completed without unreasonable interruption, in good faith, and consistent with the time limitations set forth in the Special Use Permit. If a Special Use Permit does not include a time limit, the Special Use Permit shall expire within three (3) years if development of the special use has not commenced.
 - a. **Ongoing Activities.** If the Special Use Permit is for an ongoing use (such as a gravel pit), rather than a one-time development, then the provisions of these Land

Use Regulations shall not effect the validity of said Special Use Permit if the use for which the permit was approved is commenced and diligently pursued from (the effective date of these Land Use Regulations), and continued without unreasonable interruption, in good faith, and consistent with any applicable time limitations set forth in the Special Use Permit.

- b. **Extensions.** No extension of time shall be given to any Special Use Permit approved prior to (the effective date of these Land Use Regulations).

2. **Inactivity Under Special Use Permit.** If the use for which a Special Use Permit that was issued prior to (the effective date of these Land Use Regulations) is discontinued or abandoned for a period of three (3) consecutive years, the Special Use Permit shall expire and the use may not be established, re-established or resumed without a new permit approved under these Land Use Regulations. For purposes of this subsection, discontinued or abandoned@ does not include periods of inactivity which were planned for in the original permit or which are inherent in the use, provided that during such inactivity the property is not used in a way inconsistent with the establishment, re-establishment or resumption of the use or with the permit.
3. **Modifications.** Proposed modifications to any Special Use Permit approved prior to (the effective date of these Land Use Regulations) that constitute a substantial change to such permit, shall be in conformance with these Land Use Regulations.

E. **Planned Unit Developments and Subdivisions.**

1. **Final Plat for Subdivision.**

- a. **General.** The provisions of these Land Use Regulations shall not effect the validity of any Final Plat for Subdivision formally and validly approved by the Board of County Commissioners prior to (the effective date of these Land Use Regulations).
- b. **Modifications.** Proposed modifications to any Final Plat for Subdivision approved prior to (the effective date of these Land Use Regulations) that constitute a substantial change to such approved development, shall be in conformance with these Land Use Regulations.

2. **Subdivision or PUD in Process.**

Except as otherwise expressly provided in these Land Use Regulations, the provisions of these Land Use Regulations shall not apply to the review for approval of any PUD or Subdivision proposal which is in process but which has not received approval for a Final Plat (or for the first Final Plat in a multi-phase proposal) prior to [the effective date of these Land Use Regulations], if the proposal has received a Planning Commission tabling of consideration or recommendation for approval or disapproval of a Preliminary Plan prior to [the effective date of these Land Use Regulations] and a Preliminary Plan based on the same Sketch Plan is approved by the Board of County Commissioners within six (6) months after the date of adoption of these Regulations.

3. Modifications. Proposed modifications to any Plat for Subdivision approved prior to (the effective date of these Land Use Regulations) or any Preliminary Plan for PUD or Preliminary Plan for Subdivision approved pursuant to Section 1-150.E.2., Subdivision or PUD in Process, that constitute a substantial change to the Plat or Preliminary Plan, shall be in conformance with these Land Use Regulations.
- F. **Compliance With Permit Conditions.** All development permitted prior to (the effective date of these Land Use Regulations) shall be completed in accordance with the terms and conditions of the permit approval, including all terms, conditions, and regulations governing the issuance of the permit. Terms, conditions, and governing regulations of previously approved permits shall be enforced pursuant to Article 7, Enforcement.
- G. **Voluntary Compliance.** Notwithstanding the provisions of this Section, any applicant may request to have an application for development permit reviewed pursuant to the procedures and standards of these Land Use Regulations.

SECTION 1-160. REPEALER

- A. **Repeal of County's Prior Land Use Regulations.** Except in the case of Section 1-150.C, Existing Building Permits and Variances, and Section 1-150.D, Existing Special Use Permits, and Section 1-150.E., Planned Unit Developments and Subdivisions, or to the extent necessary to enforce compliance with permits issued pursuant thereto or issued prior to (the effective date of these Land Use Regulations), the Eagle County Land Use Regulations, Chapter II, Zoning and Subdivision Regulations, are hereby repealed on the date of the County's adoption of these Land Use Regulations.
- B. **Non-revival of Formerly Repealed Ordinance, Codes, and Other Regulations.** The repeal of the Eagle County Land Use Regulations, Chapter II, Zoning and Subdivision Regulations, does not revive any other provisions, resolutions, ordinance, codes, or other regulations repealed by the aforementioned provision.

SECTION 1-170. SEVERABILITY

If any Division, Section, Subsection, paragraph, clause, provision, or portion of these Land Use Regulations are adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of these Land Use Regulations shall not be affected. If any application of these Land Use Regulations to a particular structure, land, or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land, or water not specifically included in said judgment.