

## CHAPTER 1

### GENERAL PROVISIONS

#### 1.01 INTRODUCTION

These Regulations are divided into six major sections:

Chapter I contains the purpose and authority of Eagle County to enact these Regulations, a brief discussion of the general provision of the various regulations, a section on enforcement and amendment procedures.

Chapter II contains the Zoning and Subdivision Regulations. This Section addresses the permitted uses and densities allowable in the various zoning categories as well as the procedures required in order to subdivide real property.

Chapter III contains the Building Resolution which sets forth the application of various building codes for construction within the County.

Chapter IV formerly included regulations pertaining to Individual Sewage Disposal Systems (ISDS); now statutorily referred to as On-Site Wastewater Treatment Systems (OWTS). The Eagle County Public Health Agency On-Site Wastewater Treatment System (OWTS) regulations are promulgated by the Eagle County Board of Health as a stand-alone document. Chapter IV has been reserved for future use. (*amd. 07-29-2014*)

Chapter V contains regulations addressing construction within County rights-of-way.

Chapter VI sets forth the activities and areas of State interest regulated by the County to include:

- 1) Site selection and construction of major new water and sanitation facilities.
- 2) Major extension of water and wastewater distribution lines.
- 3) Efficient utilization of municipal and industrial water projects.
- 4) Construction activities within floodplains.

Taken as a whole, this document provides a comprehensive set of regulations to provide for orderly growth in Eagle County. Depending on the activity, one or more of the regulations may apply. Each Chapter will be available to purchase separately depending on the applicant's particular needs. Any questions which might arise concerning the

application of these Regulations can be directed to the Department of Community Development.

## 1.02 PURPOSES

This document provides a compendium of regulations which govern land use in the unincorporated areas of Eagle County.

These Land Use Regulations are designed to promote the health, safety, convenience, order, prosperity, and welfare of the present and future inhabitants of Eagle County in accordance with the Eagle County Master Plan, including the lessening of congestion and reducing the waste of excessive amounts of roads; promoting energy conservation; securing safety from fire, floodwater and other dangers; providing adequate light and air; classification of land uses and distribution of land development and utilization; protecting the tax base of the County; securing economy in governmental expenditures; fostering the County's agricultural, forestry, resort, business, mining, and other economic bases; protecting both urban and non-urban development; conserving the value of property and encouraging the most appropriate use of land.

These Land Use Regulations are further intended to protect the public health, safety, and welfare by regulating activities and development in hazardous areas; protecting lands from activities which would cause immediate or foreseeable material danger to significant wildlife habitat and would endanger a wildlife species; preserving and regulating areas of historical and archaeological importance with respect to the establishment of roads on public lands administered by the federal government. This authority includes authority to prohibit, set conditions or require a permit for the establishment of any road authorized under the general right-of-way granted to the public by 43 U.S.C. 932 (R.S. 2477); regulating the location of activities and development which may result in significant changes in population density; providing for phased development of services and facilities; regulating the use of land on the basis of the impact thereof on the community or surrounding areas; and otherwise planning for and regulating the use of land so as to provide planned and orderly use of land and protection of the environment in a manner consistent with constitutional rights.

## 1.03 AUTHORITY

Eagle County is authorized by law to regulate zoning, planning, subdivision of land, and building by virtue of Section 30-28-101 et seq., C.R.S., and Section 30-28-201 et seq., C.R.S., respectively, as amended; to regulate certain activities on and uses of land by Section 29-20-101 et seq., C.R.S., as amended; to designate and administer Areas and Activities of State Interest by Section 24-65.1-101 et seq. and Section 24-32-111, C.R.S.; to regulate planned unit developments by Section 24-67-104 et seq., C.R.S., as amended; to regulate On-Site Wastewater Treatment Systems (OWTS) by Section 25-10-101 et seq., C.R.S., as amended; and to regulate construction activities within public ways by Section 30-11-107, C.R.S., as amended. (*amd. 07-29-2014*)

Eagle County Board of County Commissioners have been given the authority through C.R.S. 30-15-401(1)(a)(V)(C) to adopt reasonable regulations for controlling pollution caused by wood smoke. *(am. 11/25/91)*

#### **1.04 TEMPORARY REGULATIONS**

The Board of County Commissioners, if in its opinion conditions require such action, may promulgate, by resolution at a public meeting, regulations of a temporary nature to be effective for a limited period not to exceed 30 days.

During this 30 day period, a 15 day public notice shall be given in a newspaper of local distribution, advertising a public hearing to discuss the matter at hand requiring the temporary regulation and may at such public hearing extend the duration of the effectiveness of said regulation for a period not to exceed 6 months. The nature of the temporary regulation may prohibit or regulate in any part or all of the unincorporated territory of Eagle County, the zoning or subdivision of land, or the erection, construction, reconstruction or alteration of any building or structure used or to be used for any business, residential, industrial or commercial purposes.

#### **1.05 INTERPRETATION**

In the interpretation and application of these Land Use Regulations, except Chapter II, the following criteria shall govern:

- 1) The burden of proof is upon the applicant to show full compliance with the purpose of these Land Use Regulations.
- 2) In their interpretation and application, the provisions of these Land Use Regulations shall be regarded as the minimum requirements for the protection of the public health, safety, comfort, convenience, prosperity and welfare. These Regulations shall therefore be regarded as remedial and shall be liberally construed to further its underlying purposes.
- 3) Whenever both a provision of these Land Use Regulations and any other provision of such Regulations, or any provision in any other law, ordinance, resolution, rule, or regulation of any kind, contain any restrictions covering any of the same subject matter, whichever restrictions are more restrictive or impose higher standards or requirements shall govern. All uses and all locations and bulk permitted under the terms of these Land Use Regulations shall be in conformity with all other provisions of law.
- 4) These Land Use Regulations are not intended to abrogate or annul any valid subdivision plats, easements, covenants, building permits, legally established lots, or uses established, approved and/or issued before the effective date of these Regulations.

## 1.06 CONSTRUCTION

The following six statements are rules regarding the construction of language in these Land Use Regulations, except Chapter II:

- 1) The particular has precedence over the general statements. In the event of any conflict, inconsistency, or incongruity between the general provisions (Chapter I) of these Land Use Regulations and any provision contained in the remaining Chapters of these Land Use Regulations which set forth specific requirements for development (Chapters II-VI), the provisions within the applicable Chapter which sets forth specific requirements shall in all respects govern and control.
- 2) In case of any difference of meaning or implication between the text of these Land Use Regulations and captions for each section, the text shall control.
- 3) The word "shall" is always mandatory and not directory. The word "may" is permissive.
- 4) Words used in present tense include the future, unless the context clearly indicates the contrary.
- 5) Words used in the singular shall include the plural, unless the context clearly indicates the contrary. Words in one gender shall be deemed to include the other gender.
- 6) Any definition used in the applicable Colorado Statutes may be used in these Land Use Regulations and if the statutory definitions conflict, then the statutory definitions shall govern.

## 1.07 SEPARABILITY

It is hereby declared to be the legislative intent that the several provisions of these Land Use Regulations shall be severable, in accordance with the provisions set forth below:

- 1) If any provision of these Land Use Regulations is declared to be invalid by a decision of any court of competent jurisdiction, it is hereby declared to be the legislative intent that:
  - a) The effect of such decision shall be limited to that provision or provisions which are expressly stated in the decision to be invalid; and
  - b) Such decision shall not affect, impair, or nullify these Regulations as a whole or any other part thereof, but the rest of these Regulations shall continue in full force and effect.

- 2) If the application of any provision of these Land Use Regulations to any lot, building, other structure or tract of land is declared to be invalid by a decision of any court of competent jurisdiction, it is hereby declared to be the legislative intent that:
  - a) The effect of such decision shall be limited to that lot, building, other structure or tract of land immediately involved in the controversy, action or proceeding in which the judgment or decree of invalidity was rendered; and
  - b) Such decision shall not affect, impair or nullify these Regulations as a whole or the application of any provision thereof, to any other lot, building, other structure or tract of land.

### **1.08 REPEAL**

All prior Resolutions of the Eagle County Board of County Commissioners which are inconsistent with the provisions of these Land Use Regulations are hereby repealed to the extent of such inconsistency only. The repeal of any of the above-mentioned resolutions does not revive any other resolution or portion thereof repealed by said resolution, and such repeals shall not affect or prevent the prosecution or punishment of any person for the violation of any resolution repealed hereby for an offense committed prior to the repeal.

### **1.09 ADMINISTRATION OVER PLATTING**

- 1) All plans of improvements for public use and all plans, plats, plots, and replots of land laid out in subdivision or building lots and the roads, alleys, or other portions of the same, intended to be dedicated to a public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto, shall be submitted to the Planning Commission and the County Commissioners for review and subsequent approval, conditional approval, or disapproval. It shall not be lawful to record any such plan or plat in any public office unless the same shall bear thereon, by endorsement or otherwise, the approval of the County Commissioners.
- 2) No changes, erasures, modifications, or revisions shall be made on the Final Plat after the approval by the County Commissioners without replatting.

### **1.10 PERMITS**

No permits of any kind shall be issued by the County Building Department, nor any other administrative office of the County, for the construction of any building or other improvements upon any land to which these Land Use Regulations apply unless and until the requirements thereof have been met.

## **1.11 JURISDICTION**

These Land Use Regulations shall apply to all lands within the unincorporated territory of Eagle County.

## **1.12 TITLE**

These Land Use Regulations shall be referred to as the "Eagle County Land Use Regulations" or "Land Use Regulations."

## **1.13 EFFECTIVE DATE, FILING WITH COUNTY CLERK AND RECORDER**

- 1) These Land Use Regulations shall become effective upon adoption by the Board of County Commissioners.
- 2) Upon adoption of these Land Use Regulations and any amendments thereto, the Board of County Commissioners shall file a certified copy of the same in the office of the County Clerk and Recorder which shall be kept and there made available for public inspection during reasonable times. In addition, a certified copy of these Land Use Regulations and any amendments thereto adopted by the Board of County Commissioners shall be certified to the County Clerk and Recorder for recording in the same manner as any other document relating to real property.

## **1.14 ENFORCEMENT**

### **1.14.01 Generally**

- 1) The Board shall provide for the enforcement of the zoning or supplementary regulations by means of withholding building permits. It shall be unlawful to erect, construct, reconstruct, alter or change the use of any building or other structure within the unincorporated territory covered by such zoning or general regulations without obtaining a building permit from the County Building Inspector, (see Chapters II-VI for specific exemptions to the respective Regulations). Such Building Inspector shall not issue any permit unless the plans for the proposed erection, construction, reconstruction, alteration, or use fully conform to all zoning and general regulations then in effect.
- 2) It shall be unlawful to erect, construct, reconstruct, alter, maintain or use any building or structure or to use any land in violation of any regulation in, or of any provisions of, any zoning or general regulations of these Land Use Regulations, or any amendments thereto, (see Chapters II-VI for specific exemptions).

- a) Any person, firm, or corporation violating any such regulation, provision, or amendment is guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than one hundred dollars (\$100), or by imprisonment in the County Jail for not more than ten (10) days, or by both such fine and imprisonment, (See also, Chapter II, Section 7). Each day during which such illegal erection, construction, reconstruction, alteration, maintenance, or use continues shall be deemed a separate offense. *(am. 05/01/07)*
  - b) In addition to such criminal penalties, any person, firm or corporation violating these Land Use Regulations may be subject to a civil penalty in an amount of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), (See also, Chapter II, Section 7). Each day during which such violation continues shall be deemed a separate offense and shall be the subject of a continuing penalty in an amount not to exceed one hundred dollars (\$100) for each such day. *(orig. 05/01/07)*
  - c) In addition to other remedies provided by law, the County Attorney may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove such unlawful erection, construction, reconstruction, alteration, maintenance or use. *(orig. 05/01/07)*
- 3) The Zoning Administrator, or authorized representative, is authorized to enter upon private property for the purpose of administering these Land Use Regulations. The owner of the property shall give the Zoning Administrator free access after Eagle County has given reasonable notice for such survey or inspection. If access is denied, the Zoning Administrator may apply to the District Court of Eagle County for an order authorizing entry. If a violation shall be found to exist, the Zoning Administrator, or authorized representative, shall give written notice to the violator to correct such violation within ten (10) calendar days after the date of such notice. Should the violator fail to correct the violation within such ten (10) day period, the Eagle County Zoning Administrator, or authorized representative, may request that the County Sheriff issue a summons and complaint to the violator, stating the nature of the violation with sufficient particularity to give notice of said charge to the violator. The summons and complaint shall require that the violator appear in County Court at a definite time and place stated therein to answer and defend the charge. One copy of said summons and complaint shall be served upon the violator by the County Sheriff in the manner provided by law for the service of a criminal summons. One copy each shall be retained by the Sheriff and the Eagle County Department of Community Development, and one copy shall be transmitted by the Sheriff to the Clerk of the County Court. *(am. 05/01/07)*

Notwithstanding the foregoing, the issuance of a written notice as specified in the paragraph next above shall in no way or manner be deemed a prerequisite to the institution of any enforcement proceedings set forth herein; and provided

further, that compliance with such written notice shall not necessarily be deemed to be a defense to any alleged violation of these Land Use Regulations in any court action instituted seeking full compliance therewith, but evidence of compliance with such order may be introduced as matter in mitigation and extenuation.

- 4) The County Attorney's office is hereby authorized to enforce the provisions of this Section on behalf of the Board of County Commissioners.

### 1.14.02 Building Violations

- 1) The County Building Official or his designated representative is authorized to administer and enforce the County Building Code set forth in Chapter III of these Land Use Regulations. It shall be unlawful to erect, construct, reconstruct, alter or remodel any structure, dwelling, or building in the designated area without first obtaining a building permit from the County Building Official or his designated representative except when expressly exempt from the Eagle County Building Resolution as found in Chapter III. The County Building Official or his designated representative shall not issue any permit unless the plans for such proposed erection, construction, reconstruction, alteration, or remodeling fully conform to the regulations and restrictions in the County Building Code.
  - a. Any person, firm or corporation violating the provisions of the County Building Code is liable upon conviction of a fine of not more than \$100, or by imprisonment in the County Jail for not more than ten (10) days, or by both such fine and imprisonment. Each day during which such illegal erection, construction, reconstruction, alteration, maintenance or use continues shall be deemed a separate offense. *(am. 05/01/07)*
  - b. In addition to such criminal penalties, any person, firm or corporation violating these Land Use Regulations may be subject to a civil penalty in an amount of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000). Each day during which such unlawful activity continues shall be deemed a separate violation and shall be the subject of a continuing penalty in an amount not to exceed one hundred dollars (\$100) for each day. Until paid, any civil penalty ordered by the County Court shall, as of recording, be a lien against the property on which the violation has been found to exist. In case the assessment is not paid within thirty (30) days, it may be certified by the County Attorney to the County Treasurer, who shall collect the assessment, together with a ten percent penalty for the cost of collection, in the same manner as other taxes are collected. Any lien placed against a property pursuant to this section shall be recorded with the Eagle County Clerk and Recorder. *(am. 05/01/07)*

- c. In addition to other remedies provided by law, the County Attorney may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration or use. *(am. 05/01/07)*
- 2) Whenever a County Building Inspector or Code Enforcement Officer has personal knowledge of any violation of the Eagle County Building Code, he or she shall give written notice to the violator to correct the violation within ten (10) calendar days after the date of the notice. Where the violator fails to correct the violation within the ten (10) day period, the County Building Inspector or Code Enforcement Officer may request that the County Sheriff issue a summons and complaint to the violator, stating the nature of the violation with sufficient particularity to give notice of the charge to the violator. Any violation of the County Building Code shall be deemed a nuisance. *(am. 05/01/07)*

#### **1.14.03 Reserved for future use.** *(amd. 07-29-2014)*

#### **1.14.04 Road Cut and Road Construction within Public Ways**

- 1) It shall be unlawful for any person to make, construct, reconstruct, or alter any opening, excavation, tunnel, sidewalk, curb, gutter, street, or to perform any other work of any kind within the public way which will result in physical alteration thereof, unless such person shall first have obtained a road cut and/or road construction permit for the performance of such, and unless such work shall be performed in conformity with the terms and provisions of Chapter V of these Land Use Regulations.
- 2) It shall be unlawful for any person to violate the terms of Chapter V of these Land Use Regulations, or of any lawful orders or regulations issued incident thereto, including, but not limited to the County Engineering Regulations, Design Standards and Construction Standards. Any such violation shall render the violator appropriate civil proceedings and/or criminal proceedings under Section 43-5-301, C.R.A. 1973, as amended.

#### **1.14.05 Cumulative Effect**

The foregoing remedies and enforcement provisions shall be cumulative and not exclusive and shall be in addition to any other remedies and enforcement provisions provided by law.

#### **1.14.06 Non-Liability for Damages**

These Land Use Regulations shall not be construed to hold Eagle County in any manner responsible for any damages to persons or property resulting from any inspection as herein authorized or resulting from any failure to so inspect, or resulting from the issuance or denial of a building permit as herein provided, or resulting from the institution of court action as hereinabove set forth or the forbearance by Eagle County to

so proceed.

### **1.14.07 Non-Liability of Officials**

Any County Official or employee, charged with the enforcement of these Land Use Regulations, acting in good faith and without malice on behalf of said County in the discharge of his official duties, shall not thereby render himself personally liable for any damages which may accrue to persons or property resulting from any such act or omission committed in the discharge of such duties. Any suit or proceeding instituted against such official or employee, stemming from any act or omission performed by him in the enforcement or attempted enforcement of any provision of these Regulations, shall be defended by the legal officer(s) of the County until final termination of the proceedings.

## **1.15 AMENDMENTS**

### **1.15.01 Scope and Authority**

From time to time the Board of County Commissioners may amend any of the provisions of these Land Use Regulations, including but not limited to the number, shape, boundaries, area or requirements of any zone district or other areas and may create new districts and areas. This Section sets forth the procedures for the adoption of amendments to all provisions of these Land Use Regulations except Chapter II, which contains its own provisions for amendments.

### **1.15.02 Private Applications**

Any private applicant seeking an amendment under the procedures of this Section to the provisions of these Land Use Regulations shall submit an application to the Department of Community Development, which shall include the name and address of the applicant and the language proposed for addition, deletion, or amendment.

### **1.15.03 Commencement**

Amendments to the provisions of these Land Use Regulations may be proposed by a private applicant, the staff, the Planning Commission or the Board.

### **1.15.04 Referrals**

- 1) Before the Department of Community Development issues a staff report to the Planning Commission on Land Use Regulation amendments, the proposed amendment shall be referred to any appropriate referral agencies for an advisory opinion. The Planning Commission shall then review the staff report and advisory opinions prior to rendering a recommendation to the Board of County Commissioners. *(am 12/16/08)*

- 2) If the proposal would affect land lying wholly or partially within three (3) miles or within the area encompassed by the Comprehensive Plan of any incorporated municipality, such proposal shall be referred to the City Clerk of that municipality for recommendation by the city or town planning commission or city council or town board, or agents designed by them. Failure of the city to make recommendations within thirty (30) days constitutes a waiver of its right to do so. *(am 12/16/08)*

#### **1.15.05 Public Hearing**

- 1) The Planning Commission shall hold a public hearing prior to recommending the adoption of any amendments or changes to these Land Use Regulations or Building Resolution. The time and place of such public hearing shall be advertised by the Commission at least fifteen (15) days prior to the hearing in a newspaper of general circulation within the County. After considering the testimony at the public hearing and comments from governmental agencies and interested parties, the Planning Commission shall recommend approval, conditional approval or disapproval of the proposed changes or amendments to the County Commissioners. *(am 12/16/08)*
- 2) The Board, before finally adopting any amendments or changes to these Land Use Regulations or Building Resolution, shall hold a public hearing thereon, notice of which shall be published once in a newspaper of general circulation in the County at the expense of the applicant at least thirty (30) and not more than sixty (60) days before the hearing. Such notice shall state the date, time and place of the hearing; the place where the proposal and relevant materials may be examined; and a telephone number where inquiries may be answered. Notwithstanding the foregoing public notice requirement, notice of a public hearing on any proposed amendments to the County Building Code shall be given by at least one publication in a newspaper of general circulation in the county at least fifteen (15) days prior to said hearing. In no case shall the area covered by the building code be extended or changed unless the same has been proposed by or is first submitted for the approval, disapproval, or suggestions of the county planning commission. *(am 12/16/08)*
- 3) The proposal shall be available for public inspection in the Department of Community Development for thirty (30) days prior to the hearing before the Board of County Commissioners.

#### **1.15.06 Board Action**

- 1) In making its decision the Board shall consider the information disclosed at the public hearing, the Department of Community Development recommendation and any referral agency comments, any comments of incorporated areas to which the proposal was referred, and the advisory comment of the Division of Planning.

- 2) If the proposal recommended by the Planning Commission is substantially altered by the Board, then the Board shall resubmit the altered proposal to the Planning Commission for its approval, disapproval, or suggestions. The Planning Commission shall send its report to the Board within thirty (30) days.
- 3) The planning Commission may recommend and the Board may adopt only those amendments which it finds to be in conformance with the policies and regulations of these Land Use Regulations, and the Eagle County Master Plan.

## **1.16 APPEALS**

### **1.16.01 Appeals to the Board of County Commissioners**

Except as otherwise specifically provided in Chapter II, appeals to the Board of County Commissioners may be taken by 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 endorsement of the provisions of these Land Use Regulations. Appeals to the Board of County Commissioners may also be taken by any officer, department, board, or bureau of the County affected by the granting or refusal of a building permit or by other decision of an administrative officer or agency based on or made in the course of the administration or enforcement of the provisions of these Land Use Regulations. Such appeal must be made within 30 days after the occurrence of such grievance or decision which is the subject of the appeal.

### **1.16.02 Procedure**

- 1) Appeals hereunder shall be initiated by the filing of a written Notice of Appeal to the Clerk of the Board of County Commissioners. Said Notice of Appeal shall include the following information:

- a) The nature of the decision or grievance by which the appeal is being taken;
  - b) The date of such decision or grievance, and the name of the administrative officer or agency making the same;
  - c) Any applicable rules or regulations pertaining to the decision or grievance being appealed from;
  - d) The name and mailing address of the Appellant;
  - e) Legal description of the property affected;
  - f) Brief factual description setting forth the particulars and reasons for the appeal; and
  - g) Any other information as may be required by the Board of County Commissioners.
- 2) Upon receipt of a Notice of Appeal, the Clerk of the Board of County Commissioners shall schedule the appeal for hearing before the Board of County Commissioners, which hearing shall not be later than thirty (30) days from the receipt thereof. Written notice of the date, time and place of the hearing shall be given not later than ten (10) days prior to the date of hearing to the Appellant and any other person who may be affected thereby.
  - 3) Not later than ten (10) days prior to the scheduled hearing, any and all exhibits, testimony and evidence of whatsoever kind shall be transmitted to the Clerk of the Board of County Commissioners.
  - 4) At the hearing, the Board of County Commissioners shall consider all the evidence transmitted to the Clerk of the Board of County Commissioners and any additional evidence which it deems appropriate. Strict rules of evidence shall not apply, but all additional oral evidence shall be reduced to writing in summary form.
  - 5) Ruling: Within twenty (20) days from the date of the hearing, the Board of County Commissioners shall issue its written ruling affirming, modifying, or reversing the decision or action which is the subject of the appeal. Copies of the Ruling shall be mailed to the Appellant and any other interested parties.