

CHAPTER 4.04

ZONING - GENERAL PROVISIONS, USES AND REQUIREMENTS

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ESTABLISHMENT OF DISTRICTS

To carry out the purpose and provisions of this Title the incorporated area of the Town of Eagle is hereby divided into the following zone districts, with the following intents:

- R RESOURCE - To maintain and protect the natural resources and appropriate existing uses in the undeveloped areas of Town, including agricultural land, water, hillsides and other open spaces which areas may be available for future development.
- RR RURAL RESIDENTIAL - For rural-density single-family dwellings and compatible agricultural and other open space uses, including recreation.
- RL RESIDENTIAL LOW DENSITY - For low density residential uses.
- R1 RESIDENTIAL SINGLE FAMILY - For single family residential uses.
- RM RESIDENTIAL MEDIUM DENSITY - For medium-density residential uses.
- RMF RESIDENTIAL MULTI-FAMILY - For higher density residential uses.
- RH RESIDENTIAL HIGH DENSITY - For higher density multi-family residential uses.
- MHP/PUD MOBILE HOME PARK - For Mobile Home Parks of 2 acres or larger.
- CBD CENTRAL BUSINESS DISTRICT - For commercial uses which preserve the historic character of downtown Eagle and promote its economic and aesthetic viability. For the center of pedestrian activity and uses which contribute thereto.
- CL COMMERCIAL LIMITED - For commercial uses of limited size and impact which serve the daily or convenience needs of residents in the neighborhood.
- CG COMMERCIAL GENERAL - For commercial and tourist uses including lodging, dining, and recreation facilities and compatible uses, and for heavier commercial uses, low-impact manufacturing uses, and compatible uses.
- I INDUSTRIAL - For a wide range of industrial uses and compatible uses.
- PA PUBLIC AREA - For any use owned and/or operated by a public entity.
- PUD PLANNED UNIT DEVELOPMENT - For large developments designed and reviewed as a unit so as to provide public and private design benefits, including larger areas of open space and a mixture of compatible uses.

Amended 06/02/91

4.04.020 INCORPORATION OF MAP

The location and boundaries of the zone districts established by this Chapter are shown on the "Zone District Map" of the Town of Eagle. Said zoning map, together with all data shown thereon and all amendments thereto, is by reference hereby incorporated into this Chapter. The Zone District Map shall be identified by signature of the Mayor of the Town and shall bear the date of adoption. Changes in zone districts shall be made only upon amendment to this Chapter; and any such change shall be promptly entered on the Zone District Map, with an entry on the map identifying the amending ordinance; or a revised or supplementary Zone District Map shall be drawn up, showing such changes. The Official Zone District Map shall be located in the Town Hall Offices.

4.04.030 DISTRICT BOUNDARIES

Except where otherwise indicated, zone district boundaries shall follow municipal corporation limits, section lines, lot lines, center lines of stream beds, and right-of-way center lines or extensions thereof. In un-subdivided land or where a zone district boundary divides a lot or parcel, the location of such boundary, unless indicated by dimensions, shall be determined by scale of the zone district map. Where a zone district boundary coincides with a right-of-way line and said right-of-way is subsequently abandoned, the zone district boundary shall then follow the center line of the former right-of-way. Land not part of public right-of-way and which is not indicated as being in any zone district shall be considered to be included in the most restrictive adjacent zone district even when such district is separated from the land in question by a public right-of-way.

4.04.040 APPLICATION OF REGULATIONS - Except as hereinafter provided, within the Municipal Boundaries of the Town of Eagle:

- A. No building or structure shall be erected and no existing building or structure shall be moved, removed, altered or extended, nor shall any land, building or structure be used for any purpose or in any manner other than as provided among the uses hereinafter listed in the district regulations for the district in which such land, building or structure is located;
- B. 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.
- C. 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 Title shall be considered as providing lot area, frontage, yard or other open space for any other building or structure on the same lot or on any other lot.

- D. Uses permitted by this Chapter shall also be subject to provisions of other applicable town, county and state regulations except as specifically provided herein, and further, where the provisions of this Chapter impose a greater restriction than required by such other regulation, the provisions of this Chapter shall govern.
- E. In their application and interpretation, the provisions of this Chapter shall be held to be minimum requirements. Nothing herein shall impair the obligations of or interfere with private agreements in excess of the minimum requirements. Where this Chapter imposes a greater restriction than that imposed by existing provisions of law, contract or deed, the provisions of this Chapter shall control.

4.04.050 ZONE DISTRICT REGULATIONS

The following tables indicate Zone District Regulations for uses allowed by right and as Special Uses; and requirements for minimum lot area, minimum setbacks, maximum building height, maximum lot coverage, and maximum floor-area-ratio.

4.04.060 SCHEDULE OF USES PERMITTED IN RESIDENTIAL ZONE DISTRICTS

ZONING DISTRICT	RH	RMF	RM	R1	RL	RR	R	MHP/ PUD
USE								
Single Family Dwelling	P	P	P	P	P	P	P	*
Two Family Dwelling	P	P	P	*	S	S	S	*
Multiple-Family Dwelling	P	P	P	*	*	*	*	*
High-Density, Multiple-Family Dwelling ¹	*	S	*	*	*	*	*	*
One Single Family Dwelling Unit Accessory to use-by-right	*	*	*	*	*	*	S	*
Agricultural-Farm/Ranch	*	*	*	*	*	S	P	*
Park, Playground, Greenbelt	P	P	P	P	P	P	P	P
Bed & Breakfast Facility ²	*	S	S	S	S	S	S	*
Church	S	S	S	S	S	S	*	*
Community Building	S	S	S	S	S	S	*	S
Child Care Facility	S	S	S	S	S	S	*	S
Home Occupation	P	P	P	P	P	P	P	P
Public Buildings	S	S	S	S	S	S	S	S
School	S	S	S	S	S	S	*	S
Mobile Home	*	*	*	*	*	*	*	P
Riding Stable	*	*	*	*	*	S	S	*
Utility Substation	S	*	S	*	*	*	*	*
Water Impoundments	S	S	S	S	S	S	S	*
Indoor Recreation Facility	*	S	*	*	*	*	*	*
Golf Course	*	*	*	S	S	S	S	*
Outdoor Recreation Facility	S	S	S	S	S	S	S	S
Business or Professional Office	S	S	S	*	*	*	*	*
Recreational Vehicle Park	*	*	*	*	*	*	S	*

SCHEDULE OF USES PERMITTED IN RESIDENTIAL ZONE DISTRICTS
(continued)

ZONING DISTRICT	RH	RMF	RM	R1	RL	RR	R	MHP/ PUD
USE								
Industrial Extraction & Processing	*	*	*	*	*	*	S	*
Nursing Home, Group Home	S	S	S	S	S	S	S	*
Kennel	*	*	*	*	*	*	S	*
Extraction & Processing of: Minerals, Rocks, Sand, Gravel, other Earth Products	*	*	*	*	*	*	S	*
Accessory Apartment to Owner Occupied Single-Family Dwelling	P	P	P	*	P	P	P	*
Retail except mobile home and vehicle sales	S	S	*	*	*	*	*	*
Service Establishment except vehicular service	S	S	*	*	*	*	*	*
Restaurant	S	S	*	*	*	*	*	*
Cultivation of Medical Marijuana by Patients and Caregivers ³ Amended 10/27/10	P	P	P	P	P	P	P	P
Cultivation of Marijuana for Personal Use in Residential Units ⁴ Amended 10/22/13	P ⁴	P ⁴	P ⁴	P ⁴	P ⁴	P ⁴	P ⁴	P ⁴
KEY:								
¹ Pursuant to Section 4.05.010.A.3.a	RH = RESIDENTIAL HIGH DENSITY RMF = RESIDENTIAL MULTI-FAMILY RM = RESIDENTIAL MEDIUM DENSITY R1 = RESIDENTIAL SINGLE FAMILY RL = RESIDENTIAL LOW DENSITY RR = RURAL RESIDENTIAL R = RESOURCE MHP/PUD = MOBILE HOME PARK							
² Pursuant to Section 4.05.010.A.4								
³ See Section 4.04.100(Q) concerning supplementary regulations and standards for the cultivation of medical marijuana by patients and primary caregivers in Residential Zone Districts. Amended 10/27/10								
⁴ See Section 4.04.100(S) concerning supplementary regulations and standards for the cultivation of marijuana for personal use in residential units in both residential and non-residential zone districts.” Amended 10/22/13								
* = NOT PERMITTED USE								
P = USE BY RIGHT								
S = SPECIAL USE								

Amended 03/05/86
 Amended 05/13/86
 Amended 12/27/88
 Amended 06/02/91
 Amended 08/15/93
 Amended 06/23/94
 Amended 12/06/01
 Amended 10/27/10
 Amended 10/27/15

ZONING DISTRICT	CBD	CL	CG	PA	I
USE					
Retail Establishment - except mobile home & vehicular services	P	P	P	*	S
Service Establishment - except vehicular service	P	P	P	*	S
Restaurant	P	P	P	*	*
Tavern	P	P	P	*	*
Office	P	P	P	P	*
Lodging, Extended Stay	*	*	S	*	*
Lodging, Temporary	P	P	P	*	*
Dwelling Units – above Street Level	P	S	*	S	*
High Density, Multi-Family Dwelling ¹	S	*	*	*	*
Park, Playground, Greenbelt	P	P	P	P	P
Indoor Recreation Facility (< 6,500 square feet) (Amended 4/26/16 Ord. 12-2016)	P	P	P	P	P
Indoor Recreation Facility (> 6,500 square feet) (Amended 4/26/16 Ord. 12-2016)	S	P	P	P	P
Public Building, Auditorium or other Public Assembly	S	S	S	S	*
Church, Child Care Facility, School	S	S	S	P	*
Hospital, Clinic, Nursing Home, Group Home	S	S	S	P	*
Commercial Parking Lot or Garage	S	S	S	S	S
Vehicular and Mobile Home Service, Sales and Rental	S	S	S	S	S
Contractor's Yard	*	*	S	*	S
Shop for: Blacksmith, Cabinetry, Glazing, Machining, Off-set printing, Publishing, Sheet metal	S	S	P	*	P
Utility Substation	*	S	S	*	S
Water Impoundment	*	*	S	S	S
Taxidermy Shop	*	S	S	*	S
Dry Cleaning Plant	S	S	S	*	S
Gasoline Sales	S	P	P	*	S
Automobile Salvage Yard	*	*	*	*	P
Manufacturing, assembly, processing, Packaging or preparation of articles or merchandise	*	*	S	*	P
One Single Dwelling Unit – Accessory to a use permitted	*	*	S	*	S
Restaurant – accessory to use permitted	*	*	*	P	P
Office – accessory to use permitted	*	*	*	*	P
Veterinary Clinic	S	S	S	*	S
Extraction and Processing of: minerals, rocks, sand, gravel, other earth products	*	*	*	*	S
Storage of Explosives	*	*	*	*	S
Sawmill or Wood Milling Facility	*	*	*	*	S
Recreational Vehicle Park	*	*	S	*	*

4.04.070 SCHEDULE OF USES PERMITTED IN NON-RESIDENTIAL ZONE DISTRICTS
(continued)

ZONING DISTRICT	CBD	CL	CG	PA	I
USE					
Railroad Transfer Yard, Motor Freight Depot	*	*	S	*	S
Petroleum Products Bulk Plant	*	*	S	*	S
Theater (Amended 4/26/16 Ord. 12-2016)	P	P	P	P	P
Shooting Range (Amended 4/26/16 Ord. 12-2016)	S	S	S	S	S
Mobile Home	*	*	*	*	*
Outside Storage	*	S	S	S	P
Self Service Storage Facility	*	*	*	*	S
Wholesale or Distribution Establishment, except mobile home and vehicular sales	S	S	P	*	P
Retail, except mobile home and vehicular Accessory to a principal permitted use	P	P	P	*	P
Service Establishment, except vehicular service – accessory to a principal permitted use	P	P	P	*	P
Sexually Oriented Businesses	*	*	*	*	S
Medical Marijuana Business ² Amended 11/13/12	*	*	S	*	S
Cultivation of Medical Marijuana by Patients and Caregivers in Non-Residential Units (Commercial or Industrial Spaces) ³ Amended 10/27/10	*	*	*	*	P
Cultivation of Medical Marijuana by Patients and Caregivers in Residential Dwelling Units (permitted within Non-Residential Zone Districts) ³ Amended 10/27/10	P	P	P	P	P
Retail Marijuana Business (excluding Retail Marijuana Testing Facilities) Amended 10/22/13	*	*	S ⁴	*	S ⁴
Cultivation of Marijuana for Personal Use in Residential Units	p ⁵	p ⁵	p ⁵	p ⁵	p ⁵
Cultivation of Marijuana for Personal Use in Non- Residential Units or Structures Amended 10/22/13	*	*	*	*	p ⁶
Medical Marijuana Infused Products Manufacturer ² Amended 10/09/16	*	*	S	*	S
Optional Medical Cultivation Premises ² Amended 10/09/16	*	*	S	*	S
Retail Marijuana Store ⁴ Amended 10/09/16	*	*	S	*	S
Retail Marijuana Products Manufacturing Facility ⁴ Amended 10/09/16	*	*	S	*	S
Retail Marijuana Cultivation Facility ⁴ Amended 10/09/16	*	*	S	*	S
Marijuana Testing Facility ⁵ Amended 10/09/16	*	*	S	*	S
KEY:					
¹ Pursuant to Section 4.05.010.A.3.b	CBD = CENTRAL BUSINESS DISTRICT				
² Medical Marijuana Centers and Optional Medical Marijuana Cultivation Premises Businesses allowed only on Commercial General and Industrial zoned properties East of Nogal Gulch. Please refer to attached map at the end of this Section labeled Exhibit A.	CL = COMMERCIAL LIMITED				
	CG = COMMERCIAL GENERAL				
	PA = PUBLIC AREA				
	I = INDUSTRIAL				

<p>Medical Marijuana Infused Products Manufacturer allowed only on Commercial General and Industrial zoned properties along Chambers Avenue, east of Eby Creek Road. Please refer to attached map at the end of this Section labeled Exhibit B.</p> <p>Refer to Section 4.04.100 (P) concerning supplementary regulations and standards for Medical Marijuana Businesses. Amended 10/09/16</p>	
<p>³ See Section 4.04.100(R) concerning supplementary regulations and standards for the cultivation of medical marijuana by patients and primary caregivers in Non-Residential Zone Districts. Amended 10/27/10</p>	
<p>⁴ Retail Marijuana Stores and Retail Marijuana Cultivation Facilities Businesses allowed only on Commercial General and Industrial zoned properties east of Nogal Gulch. Refer to map at the end of this Section labeled Exhibit A.</p> <p>Retail Marijuana Products Manufacturing Facilities allowed only on Commercial General and Industrial zoned properties along Chambers Avenue, east of Eby Creek Road. Refer to map at the end of this Section labeled Exhibit B.</p> <p>Refer to Section 4.04.100 (U) for supplementary regulations and standards for Retail Marijuana Businesses. Amended 10/09/16</p>	
<p>⁵ Marijuana Testing Facilities allowed only on Commercial General and Industrial zoned properties along Chambers Avenue, east of Eby Creek Road. Refer to map at the end of this Section labeled Exhibit B.</p> <p>Refer to Section 4.04.100(V) for supplementary regulations and standards for Marijuana Testing Facilities. Amended 10/09/16</p>	
<p>⁶ See Section 4.04.100(T) concerning supplementary regulations and standards for the cultivation of marijuana for personal use in non-residential units or structures in non-residential zone districts.</p>	
<p>* = NOT PERMITTED USE</p>	
<p>P = USE BY RIGHT</p>	
<p>S = SPECIAL USE</p>	

Amended 03/05/86
Amended 07/22/86
Amended 06/02/91
Amended 10/21/93
Amended 04/16/95
Amended 02/13/00
Amended 03/08/07

Amended 10/27/10
Amended 11/13/12
Amended 10/22/13
Amended 06/23/15
Amended 10/27/15
Amended 4/26/16
Amended 10/09/16

SCHEDULE OF REQUIREMENTS IN RESIDENTIAL DISTRICTS

RESIDENTIAL ZONE DISTRICTS TABLE										
ZD	MLA	MLA/DU	MFY		MSY	MRY	MBH	MLC*	MFA	MUO/DU
R	35 acres	35 acres	L	25'	Greater of 12.5' or ½ building height	20'	35'			
			C	25'						
			A	50'						
RR	2 acres	2 acres	L	25'	Greater of 12.5' or ½ building height	20'	35'			
			C	25'						
			A	50'						
RL	10,000 sf	10,000 sf	L	25'	Greater of 12.5' or ½ building height	20'	35'	Building 30% All Other Impervious 20%	60%	
			C	25'						
			A	50'						
R1	6,000 sf	6,000 sf	L	25'	Greater of 12.5' or ½ building height	20'	35'	Building 40% All Other Impervious 20%	60%	
			C	25'						
			A	50'						
RM	6,000 sf	6,000 sf	L	25'	Greater of 12.5' or ½ building height	20'	35'	Building 40% All Other Impervious 20%	80%	
			C	25'						
			A	50'						
RMF	6,000 sf	SF 6,000 sf MF 4,000 sf	L	25'	Greater of 12.5' or ½ building height	20'	35'	Building 50% All Other Impervious 20%	150%	
			C	25'						
			A	50'						
RH	20,000 sf		L	25'	15'	20'	35'			1,000 sf
			C	25'						
			A	50'						
MHP*	2 acres		L	25'	20'	20'	35'			
			C	25'						
			A	50'						

NOTES:

- * Minimum yard setback for the MHP/PUD Zone District means those around the outside of the subdivision park (see Section 4.09.020.c).
- * MLC – Maximum 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; and (2) streets, driveways, parking lots, and other impervious materials.

KEY:

ZD	Zone District	MRY	Minimum Rear Yard
MLA	Minimum Lot Area	MBH	Maximum Building Height
MLA/DU	Minimum Lot Area Per Dwelling Unit	MLC	Maximum Lot Coverage
MFY	Minimum Front Yard	MFA	Maximum Floor Area
L	Local Street	MUO/DU	Minimum Usable Open Space Per Dwelling Unit
C	Collector Street	sf	Square Feet
A	Arterial Street	SF	Single Family
MSY	Minimum Side Yard	MF	Multi-Family, including two family dwelling
R	Resource	CBD	Central Business District
RR	Rural Residential	CL	Commercial Limited
RL	Residential Low Density	CG	Commercial General
R1	Residential Single Family	I	Industrial
RM	Residential Medium Density	PA	Public Area
RMF	Residential Multi-Family		
RH	Residential High Density		
MHP	Mobile Home Park Planned Unit Development		

PUD Planned Unit Development Zone height/bulk/location requirements are specified in each PUD plan/control guide.

SCHEDULE OF REQUIREMENTS IN NON-RESIDENTIAL DISTRICTS

NON-RESIDENTIAL DISTRICTS TABLE										
ZD	MLA	MLA/DU	MFY	MSY	MRY*	MBH	MLC*	MFA	MUO/DU	
CBD	3,125 sf		0'	0'	25'	35'	Building 80% All Other Impervious 20%	240%		
CL	7,500 sf		L	25'	Greater of 12.5' or ½ building height	25'	35'	Building 50% All Other Impervious 20%	100%	
			C	25'						
			A	50'						
CG	20,000 sf		L	25'	Greater of 12.5' or ½ building height	com-com	25'	35'	Building 50% All Other Impervious 30%	150%
			C	25'		com-ind	25'			
			A	50'		com-res	75'			
I	20,000 sf		L	25'	Greater of 12.5' or ½ building height	ind-ind	25'	35'	Building 50% All Other Impervious 30%	150%
			C	25'		ind-com	25'			
			A	50'		ind-res	75'			
PA	7,500 sf		L	25'	Greater of 12.5' or ½ building height	25'	35'	Building 50% All Other Impervious 20%	150%	
			C	25'						
			A	50'						

NOTES:

- * com-com, means the proposed use is commercial and the rear property line abuts a property with a commercial use, and so forth, with “com” meaning commercial, “ind” meaning industrial, and “res” meaning residential.
- * MLC – Maximum 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; and (2) streets, driveways, parking lots, and other impervious materials.
- * Rear yard setback in the Broadway District may be reduced to less than twenty-five feet (25'). This situation will be reviewed on a case-by-case basis if enclosed garage parking is proposed and other requirements are met (refer to Chapter 4.07.022 for specific guidelines and standards).
- * Height limit in the Broadway District has a maximum building height limit of forty-two feet (42') (refer to Chapter 4.07.022 for specific guidelines and standards).
- * Building coverage may exceed the 80% maximum lot coverage in the Broadway District (refer to Chapter 4.07.022 for specific guidelines and standards).
- * In the Broadway District garage space and basement space does not count towards maximum floor area calculation (refer to Chapter 4.07.022 for specific guidelines and standards).

KEY:

ZD	Zone District	MRY	Minimum Rear Yard
MLA	Minimum Lot Area	MBH	Maximum Building Height
MLA/DU	Minimum Lot Area Per Dwelling Unit	MLC	Maximum Lot Coverage
MFY	Minimum Front Yard	MFA	Maximum Floor Area
L	Local Street	MUO/DU	Minimum Usable Open Space Per Dwelling Unit
C	Collector Street	sf	Square Feet
A	Arterial Street	SF	Single Family
MSY	Minimum Side Yard	MF	Multi-Family, including two family dwelling
R	Resource	CBD	Central Business District
RR	Rural Residential	CL	Commercial Limited
RL	Residential Low Density	CG	Commercial General
RI	Residential Single Family	I	Industrial
RM	Residential Medium Density	PA	Public Area
RMF	Residential Multi-Family		
RH	Residential High Density		
MHP	Mobile Home Park Planned Unit Development		

PUD Planned Unit Development Zone height/bulk/location requirements are specified in each PUD plan/control guide. Amended 06/02/91 Amended 04/16/95
 Amended 02/13/00 Amended 05/22/07

SUPPLEMENTARY REGULATIONS AND STANDARDS

In addition to regulations contained elsewhere in this Title, the use of land and buildings shall be governed by the following:

A. Use Not Itemized

When a use is proposed and no zone district specifically allows for such use, the applicant may request a determination of a zone district or districts in which the use may be allowed. The applicant shall submit a written request and a site plan drawn to scale which illustrates the particular use proposed. The site plan shall depict all improvements and structures necessary to accommodate the proposed use. Such request shall follow the procedures and public notice requirements as set forth for Zoning Amendments in Section 4.05.040 of this Chapter. Following the recommendation of the Planning Commission the Town Board may permit such request upon the finding of the following:

1. Such use is appropriate to the physiographic and general environmental character of the District to which it is added;
2. Such use does not create any more hazard to, or alteration of, the natural environment than the minimum amount normally resulting from the other uses permitted in the District to which it is added;
3. Such use does not create any more offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences or more traffic hazards than the minimum amount normally resulting from the other uses permitted in the District to which it is added;
4. Such use is compatible with the uses existing and permitted in the District to which it is added.
5. Such use is in conformance with the goals and policies of the Town and the purposes of this Title.

When any use has been added as a Use by Right or Special Use in any District in accordance with this Section, such use shall be deemed to be listed in the appropriate section of this Chapter, and shall be added thereto in the published text of this Chapter at the first convenient opportunity.

B. Temporary Use

1. Any use, including construction office or yard, construction housing and camper trailers, carnival, fair, tent meeting, or any use listed in this Chapter, may be allowed on a temporary basis (less than 12 months), upon issuance of a temporary use permit. Such request shall follow the procedures and public notice requirements as set forth for Special Use Review in Section 4.05.010. Such request may be allowed upon the finding by the Town Board of the following:
 - a. Such use is compatible with the neighborhood proposed;

- b. The site of the temporary use will be returned to its original condition or improved after completion of the temporary use, and adequate provision has been made therefore, subject to the approval of the Town Attorney. Such provision may include a bond or other security.
- c. Such use complies with the Town's regulations and is in conformance with the goals and policies of the Town.

The Planning and Zoning Commission shall use the above standards in their review of the Temporary Use Permit Application.

- 2. Provided, however, if in the determination of the Town Planner, the temporary use requested is a minor impact and meets the findings of Section 4.04.100(B)(1), the Town Planner may issue a temporary use permit. The Town Planner may issue conditions with the permit as are deemed necessary to achieve the objectives set forth above. In the event the Town Planner denies the temporary use permit requested, the applicant may file an appeal by following the procedures set forth in Chapter 2.20 of the Eagle Municipal Code. The Town Board shall hear the appeal at a regular meeting within 30 days of the date of filing the appeal. The Board shall hold a public hearing at said meeting on the appeal. Public notice shall be as set forth for Special Use Review in Section 4.05.010.

Amended 09/08/02
Amended Ord. 18-2015 06/23/15

C. Utility Transmission

Nothing in these regulations shall be construed to prohibit construction or installation of a public utility use or structure necessary for transmission of commodities or services of a utility company, through mains or distribution lines, in any Zone District. Storage, maintenance facilities, substation or exchanges, and business offices shall be restricted to their appropriate Zone District. Location of Power transmission lines with a capacity of 69 KV or greater or pipelines for major transmission shall be subject to Special Use procedures as set forth in Chapter 4.05.

D. Water and Sanitation Service

All uses shall have water and sanitation service based on accepted engineering standards and approved by the Town and the Colorado State Department of Health.

E. Lot Frontage

Each lot, unless otherwise approved under Planned Unit Development, Chapter 4.11 shall have a minimum of 25 lineal feet of frontage on a public street except that a maximum of twenty condominium units or twenty townhouse lots may

front on a private access way at least 25' in width which need not meet the Town Street Construction Regulations. All other private streets shall conform with said Regulations. All private access ways and streets shall be reserved in perpetuity through private agreement and shall allow vehicular access to the unit or lot.

F. Buildings, Mobile Homes, Manufactured Homes

A building may be located in any zone district where buildings are permitted. A mobile home may be located only where expressly permitted by this Title. A manufactured home which is certified to meet the most current H.U.D. standards or which complies with the Uniform Building Code, as adopted by reference by the Town of Eagle, shall be permitted in any zone district where single family homes are allowed. Provided, however, such manufactured home shall meet all other requirements pertaining to single family homes.

G. Legal Non-Conforming Uses, Structures, and Lots

Any use, structure, or lot in existence and lawful at the time of adoption of this Title or any subsequent amendment hereto, which is not in conformance with the provisions of this Title or amendment, shall be considered a legal non-conforming use, structure or lot and may continue in existence, pursuant to the following:

1. A legal non-conforming use may be extended throughout the same building, provided no structural alteration of such building is made for the purpose of such extension.
2. A legal non-conforming use shall not be changed to any other use except a conforming use.
3. Whenever a legal non-conforming use of land or a building has been discontinued for a continuous period of one year, future use of the land or building shall be in conformance with the provisions of this Title.
4. A building which does not meet the setback, height or other site requirements of this Chapter may be repaired, maintained, or extended, provided any such extension is in full compliance with all provisions of this Chapter.
5. A legal non-conforming building which has been damaged or destroyed by fire or other causes may be restored to its original condition, provided such work is commenced within one year of such event and completed within 18 months of such event. Either time period may be extended upon approval in accordance with procedures for Special Use, as set forth in Chapter 4.05.
6. An individual lot which does not meet the minimum lot area requirement for the Zone District in which it is located shall be considered a legal non-conforming lot, and any building situated on such lot shall be considered a legal non-conforming building, subject to the provisions of this Section. Such legal non-conforming lot may be used for

construction of a building allowed in the Zone District, provided all other Zone District Regulations, including but not limited to setbacks, are met.

7. When a parcel containing a non-conforming use or structure is annexed to the Town, said use or structure shall be considered a legal non-conforming use or structure if said use or structure was permitted under Eagle County Zoning Regulations at the time of annexation and subject to any conditions imposed by Eagle County prior to annexation.

H. Supplementary Setback Regulations

1. Clear Vision Areas

- a. Use - Clear-vision areas shall be maintained on the corners of all property at the intersection of two streets or a street and a railroad. A clear-vision area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction, including parking, exceeding two and one-half feet in height, measured from the top of the curb, or where no curb exists, from the established street center line grade; except that trees exceeding this height may be located in this area, provided all branches and foliage are removed to a height of eight feet above the grade.
- b. Measurement - A clear-vision area shall consist of a triangular area two sides of which are lot lines measured from the corner intersection of the street lot lines for a distance of 30 feet, or at an intersection including an alley, 10 feet; where the lot lines have rounded corners, the lot lines shall be extended in a straight line to a point of intersection and so measured. The third side of the triangle shall be the straight line across the corner of the lot connecting the non-intersecting ends of the other two sides.

2. Live Stream Setback

- a. No improvement, building, structure, excavation, dumping, or backfill shall be placed, built, undertaken or approved within a fifty-foot setback area measured horizontally from the high water mark of any river or live stream, except for bridges, paths for non-motorized use, irrigation structures, flood control and erosion protection devices, or fences. If necessary to protect the stream, additional width may be required.
- b. Within such live stream setback area, underground utilities or public park structures may be allowed as a Special Use, following procedures set forth in Section 4.05.010 of this Chapter, provided that the Planning Commission and Town Board find that:
 - i. There is no practical alternative location for such utilities or public park structures, and
 - ii. That adequate provision is made to assure that all

construction scars are revegetated.

- c. In the Resource Zone District, permitted structures other than buildings shall be exempt from the live stream setback requirement.

3. Through and Corner Lots:

On lots bordered on two sides by streets, whether on contiguous or opposite sides, front yard setbacks shall be required along both streets.

4. Duplexes, Townhouses, Condominiums:

For purpose of setback calculations, any such building, regardless of multiple ownership, shall be considered one building occupying one lot.

5. Projections:

Every part of a required yard shall be unobstructed from ground level to the sky except as follows:

- a. Uncovered porches and decks not more than 4' above natural grade, slabs, patios, walks and steps may project into required yards.
- b. Cornices, sills and ornamental architectural features may project twelve (12) inches over a required yard.
- c. Roof eaves may project twenty-four (24) inches over a required yard.
- d. Fire escapes and individual balconies not used as passageways may project eighteen (18) inches into any required side yard or four (4) feet into any required front or rear yard.

6. Fences and Walls

- a. In any residential zone district, any fence in a required front yard, as well as any fence in a required side yard on a corner lot adjoining a public street, shall be a maximum of 42 inches in height, and any fence not in such front yard or side yard shall be a maximum of 6 feet in height.
- b. In any non-residential zone district, any fence in any front yard, whether required or not, shall be a maximum of three feet in height and shall be of such material and design as will not detract from adjacent properties, which determination shall be made by the Town Planner as part of the Building Permit review. Any fence in any rear yard, whether required or not, shall be a maximum of eight feet in height.

- c. In any Clear Vision Area, as set forth in Section 4.04.100.H.1, any fence shall be a maximum of 2 1/2 feet in height.
- d. No fence or wall shall be located so as to obstruct traffic sight distances.
- e. Fence and wall height shall be measured vertically from undisturbed grade.

7. Accessory Buildings

- a. An accessory building may be located in a required rear yard provided not more than 40 percent of the rear yard area is covered. Such building shall observe a 7-1/2 foot setback from the rear lot line and a 7-1/2 foot setback from the side lot lines.
- b. Provided, however, in the section of town that lies within the boundaries of Grand Avenue, McIntire Street, 7th Avenue, and Church Street, accessory buildings shall observe a 2 foot setback from the rear lot line and 2 1/2 foot setback from the side lot lines.

I. Supplementary Height Regulations

1. Height Limit Exceptions:

Parapet walls may exceed Zone District height limitations by four (4) feet. Stacks, vents, cooling towers, elevator structures and similar mechanical building appurtenances and spires, domes, cupolas, towers and similar non-inhabitable building appurtenances may exceed applicable Zone District height limitations by up to thirty (30) percent.

J. Minimum Use Standards

In all Zone Districts except as otherwise specified herein, all uses shall be designed and operated in compliance with the following minimum standards:

- 1. All fabrication, service and repair operations shall be conducted within a building, except in the Industrial Zone, where such uses may be conducted outside a building if within a fence as set forth in 2. below;
- 2. All storage of materials except merchandise displayed for retail sale shall be within a building or in the rear yard and obscured from view from surrounding properties by a fence in conformance with Section 4.04.100.H.6;
- 3. Loading and unloading of vehicles shall be conducted on private property and not on any street or alley, except in the CBD, where it may be from a designated loading zone or alley;
- 4. No dust, noise, odor, fumes, glare or vibration shall be projected beyond

the lot;

5. Any structure in the CBD without a side yard shall have a windowless wall on that side, with at least four hours' fire resistance, or as provided in the Uniform Building and Fire Codes.

K. Home Occupation Standards:

A home occupation shall be allowed in certain Zone Districts, as provided herein, provided all of the following conditions are met:

1. Such use is conducted entirely within a dwelling or accessory building and carried on by the inhabitants living there,
2. Such use is clearly incidental to and secondary to the use of the dwelling for dwelling purposes and does not change the residential character thereof,
3. There is no exterior storage on the premises of material or equipment used as a part of the home occupation,
4. There is no advertising display or other indication of the home occupation on the premises other than provided for by Chapter 4.08,
5. There is no offensive noise, vibration, smoke, fume, dust, odor, heat or glare noticeable at or beyond the property line,
6. The home occupation will not adversely affect traffic flow and parking in the neighborhood, and
7. The home occupation provides additional off-street parking adequate to accommodate all needs created by the home occupation.

L. Industrial Use Standards:

All industrial and commercial uses operating within the Town of Eagle shall comply with the following standards so that such uses do not create any danger to safety in surrounding areas, do not cause water pollution and do not create offensive noise, vibration, smoke, dust, odors, heat, glare or other objectionable influences beyond the boundaries of the property in which such uses are located, and do not constitute a public nuisance or hazard.

1. Volume of Sound

Every use shall be so operated that the volume of sound inherently and recurrently generated does not exceed sixty (60) decibels with a maximum increase of five (5) decibels permitted for a maximum of fifteen (15) minutes in any one hour at any point on any boundary line of the property on which the use is located.

2. Vibration

Every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point on any boundary line of the property on which the use is located.

3. Smoke

Every use shall be so operated that it does not emit smoke exceeding a density of No.1 on the Ringleman Chart.

4. Particulate Matter

Every use shall be so operated that it does not emit particulate matter exceeding 0.2 grains per cubic foot of the flue gas at a stack temperature of 500F.

5. Heat, Glare, Radiation and Fumes

Every use shall be so operated that it does not emit an obnoxious or dangerous degree of heat, glare, radiation, or fumes beyond any boundary line of the property on which the use is located.

6. Storage

- a. The outdoor storage of flammable or combustible liquids shall conform to the requirements of Section 79.401 through 79.511 of the Uniform Fire Code, 1982 Edition. No outdoor storage of flammable or combustible liquids shall occupy any part of a front yard;
- b. Underground storage of flammable or combustible liquids shall conform to all of the requirements of the Uniform Fire Code, 1982 Edition;
- c. No materials or wastes shall be deposited upon a property in such form or manner that they may be transferred off the property by natural causes or forces;
- d. All materials or wastes which might cause fumes or dust or which constitute a fire hazard or which may be edible by or otherwise attractive to rodents or insects shall be stored outdoors in closed containers.

7. Water Pollution

No water pollution shall be emitted by the manufacturing or other processing. In a case in which potential hazards exist, it shall be necessary to install safeguards acceptable to the County Health Officer and in compliance with the laws of the Environmental Protection Agency, State Department of Health and Chapter 12.05 of the Eagle Municipal Code before operation of the facilities may begin. All

percolation tests or ground water resources tests which may be required by local or State Health Officers must be met before operation of the facilities may begin.

M. Outside Storage Standards

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 occupy more than 1,000 square feet on any one lot, are subject to the following requirements:

1. Location of Storage Area

As a general rule, outside storage areas shall be situated in the rear yard.

2. Buffer

Outside storage areas in the front yard or on lots with no, or minimal, structures shall be required to provide a front street buffer as provided in Section 4.07.010(B).

3. Auto Sales and Nurseries

Auto sales and nurseries are exempt from the standards contained in this Section.

4. Display Area

Businesses that sell, rent, or lease outside storage items may create a display area in the front yard not to exceed a single area 25 feet by a length of 25% of the lot frontage for the purpose of displaying representative items. All other outside storage items are subject to the requirements in subparagraphs (1) and (2) above.

5. Outside Storage Adjoining the I-70 Right-of-Way

Any outside storage areas located in the rear yards of lots adjoining the I-70 Right-of-Way shall create a buffer using the standards as found in subparagraph (2) above.

N. Accessory Apartments in Owner-Occupied Single Family Dwellings

An owner or owners of a single family dwelling in residential zone districts may construct and/or permit the occupancy of an accessory dwelling unit in such a single family dwelling, attached to a single family dwelling, or in an accessory building, providing that the following conditions are met.

1. The accessory apartment will be a complete, separate housekeeping unit that can be isolated from the original unit.

2. Separate outside access shall be created, provided, however, one airlock type entry may be used if separate access to the accessory apartment exists following the initial outside entry.
3. The owners of the residence in which the accessory unit is created shall occupy at least one of the dwelling units on the premises except for bona fide temporary absences.
4. The accessory apartment shall be designed so that, to the degree reasonably feasible, the appearance of the building remains that of a single-family residence. In general, new entrances shall be located on the side or the rear of the building.
5. Maximum lot coverage and maximum floor area ratios may not be exceeded.
6. Off-street parking spaces shall be provided pursuant to Section 4.07.050.
7. The design and size of the apartment shall conform to all other applicable standards and requirements.
8. The accessory unit shall not exceed 700 gross square feet, as defined by the currently adopted edition of the Uniform Building Code.

O. Extended Stay Temporary Lodging Facilities

All extended stay temporary lodging facilities permitted in the Commercial General (CG) zone district shall comply with the following requirements:

The operator of an extended stay temporary lodging facility shall lease the lodging units on a daily or week to week basis only. No person shall be permitted to reside in such a lodging facility for more than 150 days within a consecutive 12-month period, excepting only a resident manager that may reside on the premises.

1. Upon request by the Town, the owner or operator of such a lodging facility shall make available to the Town within ten (10) business days all rental records or other business records necessary for the Town to verify that no person has in fact resided within the facility for no more than 150 days within a period of 12 consecutive months.
2. Prior to the issuance of a special use permit for an extended stay temporary lodging facility, the owner shall submit to the Town a schedule designating the maximum capacity of each of the units contained within the lodging facility. Each unit in the lodging facility containing a gross floor area of less than 250 square feet shall have a maximum capacity of not more than three (3) persons including no more than two (2) persons over the age of 18. Units containing a gross floor area of more than 250 square feet shall have a maximum capacity of not more than four (4) persons including no more than two (2) persons over the age of 18.

3. The owner of an extended stay temporary lodging facility shall provide at all times an adequate number of beds within each unit contained in the lodging facility for the stated capacity of each respective unit. The owner of the lodging facility shall not permit persons in excess of the stated capacity for each unit to reside in the respective units.
4. No pets or domestic animals of any kind, except service dogs for the disabled, shall be kept or harbored by guests within any unit of the lodging facility.

P. Medical Marijuana Businesses

1. Limitation on the Number of Medical Marijuana Centers within the Town

The number of Medical Marijuana Centers permitted within the Town is based on population. A maximum of one (1) Medical Marijuana Center shall be permitted for every 5,000 people or fraction thereof. Population shall be determined by the most recent data available from the U.S. Census Bureau and the State of Colorado Demographer's Office.

In the event more than one (1) Land Use Application for a Medical Marijuana Center of the same classification are submitted to the Town in close proximity to one another, the applications comply with all the requirements of this Chapter and the Colorado Medical Marijuana Code, but the Town is not permitted to approve all of the applications because of the limitations set forth in this subsection, the Board of Trustees shall first review for approval the application which was first submitted and determined to be complete by the Town Planner, or their designee.

2. Limitation on the Number of Optional Medical Marijuana Cultivation Premises within the Town

The number of Optional Medical Marijuana Cultivation Premises permitted within the Town is based on population. A maximum of one (1) Optional Medical Marijuana Cultivation Premises shall be permitted for every 5,000 people or fraction thereof. Population shall be determined by the most recent data available from the U.S. Census Bureau and the State of Colorado Demographer's Office.

In the event more than one (1) Land Use Application for an Optional Medical Marijuana Cultivation Premises of the same classification are submitted to the Town in close proximity to one another, the applications comply with all the requirements of this Chapter and the Colorado Medical Marijuana Code, but the Town is not permitted to approve all of the applications because of the limitations set forth in this subsection, the Board of Trustees shall first review for approval the application which was first submitted and determined to be complete by the Town Planner, or their designee.

3. Limitation on the Number of Medical Marijuana Infused Products Manufacturers within the Town

The number of Medical Marijuana Infused Products Manufacturers permitted within the Town is based on population. A maximum of two (2) Medical Marijuana Infused Products Manufacturers shall be permitted for every 5,000 people or fraction thereof. Population shall be determined by the most recent data available from the U.S. Census Bureau and the State of Colorado Demographer's Office.

In the event more than one (1) Land Use Application for a Medical Marijuana Infused Products Manufacturer of the same classification are submitted to the Town in close proximity to one another, the applications comply with all the requirements of this Chapter and the Colorado Medical Marijuana Code, but the Town is not permitted to approve all of the applications because of the limitations set forth in this subsection, the Board of Trustees shall first review for approval the application which was first submitted and determined to be complete by the Town Planner, or their designee.

4. Permitted Locations

Medical Marijuana Centers and Optional Medical Marijuana Cultivation Premises shall only be located in the Commercial General (CG) and Industrial (I) Zone Districts east of Nogal Gulch pursuant to a Special Use Permit. Refer to map at the end of this Section labeled Exhibit A.

Medical Marijuana Infused Products Manufacturer shall only be located on properties along Chambers Avenue that are within the Commercial General (CG) and Industrial (I) Zone Districts and are located a minimum of one thousand seven hundred fifty feet (1,750') from the centerline of Eby Creek Road pursuant to a Special Use Permit. If any portion of such property is within the required minimum distance from Eby Creek Road, no Medical Marijuana Infused Products Manufacturer shall be permitted on that property. Refer to map at the end of this Section labeled Exhibit B.

5. Distance from Schools, Licensed Childcare Facilities, Alcohol or Drug Treatment Facilities and College Campus

All Medical Marijuana Businesses shall be located a minimum of one thousand feet (1,000') from schools, as defined in the Colorado Medical Marijuana Code, licensed childcare facilities, alcohol or drug treatment facilities, and the campus of a college or university.

6. Distance from Residential Zone District

All Medical Marijuana Businesses shall be located a minimum of one hundred feet (100') from any residential zone district which shall be measured from the zone district boundary line to the subject property line.

7. Restrictions on Mobile Facilities and Delivery of Marijuana Products

No Medical Marijuana Business shall be located in a movable or mobile vehicle or structure and no Medical Marijuana products shall be delivered in the Town unless such delivery is specifically permitted by the Colorado Medical Marijuana Code.

8. Hours of Operation
Medical Marijuana Businesses shall limit their hours of operation to 8:00 a.m. to 12:00 a.m., Monday – Sunday, or as otherwise provided in the Special Use Permit.
9. Operation of Multiple Businesses at a Single Location
A person may operate any Medical Marijuana Business and any Retail Marijuana Business permitted by this Section at the same location if in full compliance with the requirements of the Colorado Medical Marijuana Code and the Colorado Retail Marijuana Code.
10. Specific Requirements for a Medical Marijuana Center
Small samples of Medical Marijuana products offered for sale may be displayed on shelves, counters and display cases. All bulk marijuana products shall be locked within a separate vault or safe (no other items in this safe), securely fastened to a wall or floor, as approved by the Police Department.

A Medical Marijuana Center may sell “marijuana paraphernalia” as that term is defined in Chapter 9.15 of the Eagle Municipal Code to Patients only and shall be exempt from the prohibitions contained in said Chapter.
11. Specific Requirements for an Optional Medical Marijuana Cultivation Premises
If co-located with an Optional Medical Marijuana Cultivation Premises, the area of the proposed Licensed Marijuana Premises utilized for cultivation shall be physically separated from the area of the premises open to the public or to patients. Walls, barriers, locks, signage and other means shall be employed to prevent the public or patients from entering the area of the Licensed Marijuana Premises utilized for cultivation of marijuana.
12. No Products to be Visible from Public Places
Marijuana plants, products, accessories, and associated paraphernalia contained in any Medical Marijuana Business shall not be visible from a public sidewalk, public street or right-of-way, or any other public place.
13. No Beer or Alcohol on Premises
No fermented malt beverages and no alcoholic beverages, as defined in the Colorado Beer Code and the Colorado Liquor Code, respectively, shall be kept, served or consumed on the premises of a Medical Marijuana Business.
14. Storage of Products
All products and accessories shall be stored completely indoors and on-site.
15. Consumption of Marijuana Prohibited
No consumption or smoking of any Medical Marijuana products shall be allowed or permitted on the premises or adjacent grounds of a Medical

Marijuana Business.

16. Storage of Currency

All currency over \$1,000.00 shall be stored within a separate vault or safe (no marijuana in safe), securely fastened to a wall or floor, as approved by the Police Department.

17. Prevention of Emissions and Disposal of Materials

Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting the business premises shall be provided at all times. In the event that any debris, dust, fluids or other substances shall exit the business premises, the property owner and operator shall be jointly and severally responsible for the full cleanup immediately.

Businesses shall properly dispose of all materials and other substances in a safe and sanitary manner in accordance with State regulation and Eagle County Landfill regulations.

As applicable, Medical Marijuana Businesses shall be equipped with ventilation systems with carbon filters sufficient in type and capacity to eliminate marijuana odors emanating from the interior to the exterior of the premises discernible by reasonable persons. The ventilation system must be inspected and approved by the Building Official.

If carbon dioxide will be used in any cultivation area, sufficient physical barriers or a negative air pressure system shall be in place to prevent carbon dioxide from moving into the ambient air, into other units in the same building or into an adjacent building in a concentration that would be harmful to any person, including persons with respiratory disease and shall be inspected and approved by the Building Official and the Greater Eagle Fire Protection District.

All State regulations concerning ventilation systems shall be followed.

18. Compliance with Other Codes

Any Medical Marijuana Business and the adjacent grounds of the Medical Marijuana Business shall comply with all zoning, health, building, fire, and other codes and ordinances of the Town as shown by completed inspections and approvals by the Town Planner, Building Department, Greater Eagle Fire Protection District, and the Eagle County Health Department, if applicable.

19. No Harm to Public Health, Safety or Welfare

The Licensed Marijuana Premises and adjacent grounds of a Medical Marijuana Business shall be operated in a manner that does not cause any substantial harm to the public health, safety and welfare.

20. Additional Requirements

At the time a Special Use Permit is granted, amended, or the Board of Trustees approves a major change to a Medical Marijuana Business, the

Board of Trustees may impose on the applicant any conditions related to the proposed use that is reasonably necessary to protect the public health, safety or welfare, including but not limited to the following:

- a. Additional security requirements;
- b. Limits and requirements on parking and traffic flows;
- c. Requirements for walls, doors, windows, locks and fences on the Licensed Marijuana Premises and adjacent grounds;
- d. Limits on Medical Marijuana Products that may be sold;
- e. Requirements and limits on ventilation and lighting;
- f. Limits on noise inside the licensed premises or on the adjacent grounds;
- g. Prohibitions on certain conduct in the Medical Marijuana Business;
- h. Limits on hours of operation that are more restrictive than prescribed by subsection (9) above;
- i. A requirement that the Applicant temporarily close the Medical Marijuana Business to the public until certain changes, inspections or approvals are made; and
- j. A limitation of the square footage of the Medical Marijuana Business.

21. Penalty for Violation

Any violation of the provisions of this subsection or the conditions of the Special Use Permit granted, by a Medical Marijuana Business shall be punishable by a civil fine of up to one thousand dollars (\$1,000.00). Each day that a violation is committed, exists or continues shall be deemed a separate and distinct offense. In addition, any violation of the provisions of this subsection, or any conditions imposed by the Special Use Permit may result in the revocation of the Special Use Permit.

(Ord. 26-2016 §3, 10/9/2016)

Q. Cultivation of Medical Marijuana by Patients and Primary Caregivers in Residential Dwelling Units

The cultivation, production, or possession of marijuana plants for medical use by a patient or primary caregiver, as such terms are defined by Article XVIII, Section 14 of the Colorado Constitution, shall be allowed in residential dwelling units subject to the following conditions:

1. The cultivation, production or possession of marijuana plants shall be in full compliance with all applicable provisions of Article XVIII, Section 14 of the Colorado Constitution, the Colorado Medical Marijuana Code, Sections 12-43.3-101, *et. seq.*, C.R.S., and the Medical Marijuana Program, Section 25-1.5-106, C.R.S.
2. Marijuana plants that are cultivated, produced or possessed shall not exceed the presumptive limits of no more than two (2) ounces of a useable form of marijuana unless otherwise permitted under Article XVIII, Section 14 of the Colorado Constitution and no more than six (6) marijuana plants, with three (3) or fewer being mature, flowering plants that are producing a useable form of marijuana shall be cultivated or permitted within a primary residence.
3. Such cultivation, production or possession of marijuana plants shall be limited to the following space limitations within a residential unit:
 - a. Within a single family dwelling unit (Group R-3 as defined by the International Building Code, as adopted in Chapter 22, Section 131); a secure defined, contiguous area not exceeding 150 square feet within the residence of the licensed patient or registered caregiver.
 - b. Within a multi-family dwelling unit (Group R-2 as defined by the International Building Code, as adopted in Chapter 22, Section 131); a secure, defined, contiguous area not exceeding 100 square feet within the residence of the licensed patient or registered caregiver.
4. Marijuana plants shall not be grown in the common area of a multi-family residential structure.
5. If a licensed patient or primary caregiver elects to cultivate quantities of marijuana in excess of the amounts permitted under subsection (3) above, as permitted in Article XVIII, Section 14(4)(b) of the Colorado Constitution, such patient must be in full compliance with the Colorado Medical Marijuana Program as provided in Section 25-1.5-106(10), C.R.S. and may grow medical marijuana for personal use as a patient or as a primary caregiver for licensed patients as a use by right within the Industrial (I) Zone District only.
6. The cultivation of medical marijuana plants in a residential unit shall meet the requirements of all adopted Town building and safety codes. Any licensed patient or registered primary caregiver cultivating medical marijuana in a primary residential unit shall have an initial building and safety inspection conducted by the Town, shall comply with any conditions of said inspection, and shall submit to an annual building and safety code inspection thereafter. The names and locations of patients and caregivers shall not be made available to the general public in accordance with Section 24-72-204(3)(a)(I), C.R.S., as contained in the Colorado Open Records Act.

7. The cultivation of medical marijuana plants shall not be permitted on the exterior portions of a residential lot. The cultivation, production or possession of marijuana plants in a residential unit must not be perceptible from the exterior of the residence and shall comply with the following:
 - a. Any form of signage shall be prohibited; unusual odors, smells, fragrances or other olfactory stimulants shall be prohibited; light pollution, glare, or brightness resulting from grow lamps that disturbs adjacent residents shall be prohibited; and excessive noise from ventilation fans shall be prohibited.
 - b. Marijuana plants shall be used exclusively by a licensed patient for the patient's personal use and solely to address a debilitating medical condition.
8. Any primary caregiver cultivating medical marijuana for licensed patients and providing said marijuana to patients for consideration such as a monetary sum shall obtain a business license from the Town pursuant to Chapter 5.02 of the Eagle Municipal Code. Any primary caregiver transferring medical marijuana to a licensed patient for consideration shall also obtain a sales tax license and shall comply with the requirements of Chapter 3.04 of the Eagle Municipal Code concerning collection and payment of municipal sales tax.
9. Cultivation of medical marijuana in a residential unit that is not a primary residence is not permitted.
10. For the purposes of this subsection, "primary residence" means the place that a person, by custom and practice, makes his or her principal domicile and address to which the person intends to return, following any temporary absence, such as a vacation. Residence is evidenced by actual daily physical presence, use and occupancy of the primary residence and the use of the residential address for domestic purposes, such as, but not limited to, slumber, preparation of and partaking in meals, vehicle and voter registration, or credit, water and utility billing. A person may only have one (1) primary residence. A primary residence shall not include accessory buildings.
11. For the purpose of this subsection, a "secure" area means an area within the primary residence accessible only to the patient or primary caregiver. Secure premises shall be locked or partitioned off to prevent access by children, visitors, or anyone not licensed and authorized to possess medical marijuana.

(Ord. 26-2016 §4, 10/9/2016)

R. Cultivation of Medical Marijuana by Patients and Primary Caregivers in Non-Residential Zone Districts

The cultivation, production, or possession of marijuana plants for medical use by a patient or primary caregiver, as such terms are defined by Article XVIII, Section 14 of the Colorado Constitution, shall be allowed in non-residential units or structures in the Industrial (I) Zone District as a permitted use as well as in permitted residential dwelling units located in the Central Business District (CBD), Commercial Limited (CL), Commercial General (CG), Public Area (PA), and Industrial (I) Zone Districts subject to the following conditions:

1. The cultivation, production or possession of marijuana plants shall be in full compliance with all applicable provisions of Article XVIII, Section 14 of the Colorado Constitution, the Colorado Medical Marijuana Code, Sections 12-43.3-101, *et. seq.*, C.R.S., and the Medical Marijuana Program, Section 25-1.5-106, C.R.S.
2. Marijuana plants that are cultivated, produced or possessed shall not exceed the presumptive limits of no more than two (2) ounces of a useable form of marijuana and no more than six (6) marijuana plants, with three (3) or fewer being mature, flowering plants that are producing a useable form of marijuana per patient, unless otherwise permitted under Article XVIII, Section 14 of the Colorado Constitution, shall be cultivated. Within any non-residential unit located in the Industrial (I) Zone District, a caregiver may cultivate medical marijuana for no more than five (5) licensed patients. Two (2) or more primary caregivers shall not join together for the purpose of cultivating medical marijuana within any non-residential unit located in the Industrial (I) Zone District. In residential units within non-residential zone districts, marijuana plants that are cultivated, produced or possessed shall not exceed the presumptive limits of no more than two (2) ounces of a useable form of marijuana unless otherwise permitted under Article XVIII, Section 14 of the Colorado Constitution and no more than six (6) marijuana plants, with three (3) or fewer being mature, flowering plants that are producing a useable form of marijuana shall be cultivated or permitted.
3. The cultivation, production or possession of marijuana plants within a permitted residential dwelling unit shall be limited to the following space limitations within the residential unit:
 - a. Within a single family dwelling unit (Group R-3 as defined by the International Building Code, as adopted in Chapter 22, Section 131); a secure defined, contiguous area not exceeding 150 square feet within the residence of the licensed patient or registered caregiver.
 - b. Within a multi-family dwelling unit (Group R-2 as defined by the International Building Code, as adopted in Chapter 22, Section 131); a secure, defined, contiguous area not exceeding 100 square feet within the residence of the licensed patient or registered caregiver.
4. Marijuana plants shall not be grown in the common area of any commercial or industrial building.

5. The cultivation of medical marijuana plants in any building or unit within the Central Business District (CBD), Commercial Limited (CL), Commercial General (CG), Public Area (PA), and the Industrial (I) Zone Districts shall meet the requirements of all adopted Town building and safety codes. Any licensed patient or registered primary caregiver cultivating medical marijuana shall have an initial building and safety inspection conducted by the Town, shall comply with any conditions of said inspection, and shall submit to an annual building and safety code inspection thereafter. The names and locations of patients and caregivers shall not be made available to the general public in accordance with Section 24-72-204(3)(a)(I), C.R.S., as contained in the Colorado Open Records Act.
6. Cultivation of medical marijuana in a residential unit that is not a primary residence is not permitted.
7. For the purposes of this subsection, “primary residence” means the place that a person, by custom and practice, makes his or her principal domicile and address to which the person intends to return, following any temporary absence, such as a vacation. Residence is evidenced by actual daily physical presence, use and occupancy of the primary residence and the use of the residential address for domestic purposes, such as, but not limited to, slumber, preparation of and partaking in meals, vehicle and voter registration, or credit, water and utility billing. A person may only have one (1) primary residence. A primary residence shall not include accessory buildings.
8. The cultivation of medical marijuana plants shall not be permitted on exterior portions of a lot. The cultivation, production or possession of marijuana plants within a building or unit located in the Central Business District (CBD), Commercial Limited (CL), Commercial General (CG), Public Area (PA), and Industrial (I) Zone Districts must not be perceptible from the exterior of the building or unit.
9. Any form of signage shall be prohibited; unusual odors, smells, fragrances or other olfactory stimulants shall be prohibited; light pollution, glare or brightness resulting from grow lamps that disturbs adjacent property shall be prohibited; and excessive noise from ventilation fans shall be prohibited.
10. Any primary caregiver cultivating medical marijuana for licensed patients and providing said marijuana to patients for consideration such as a monetary sum shall obtain a business license from the Town pursuant to Chapter 5.02 of the Eagle Municipal Code. Any primary caregiver transferring medical marijuana to a licensed patient for consideration shall also obtain a sales tax license and shall comply with the requirements of Chapter 3.04 of the Eagle Municipal Code concerning the collection and payment of municipal sales Taxes.

S. Cultivation of Marijuana for Personal Use in Residential Dwelling Units in Both Residential and Non-Residential Zone Districts (Amended 10/22/13)

1. Purpose. This subsection is intended to apply to the growing of marijuana in residential dwelling units for personal use to the extent authorized by Article XVIII, Section 16 (3)(b) of the Colorado Constitution.
2. Any person, for purposes of this subsection and consistent with Article XVIII, Section 16 (3)(b) of the Colorado Constitution, who is twenty-one (21) years of age or older that is cultivating marijuana plants for his or her own use, may possess, grow, process or transport no more than six (6) marijuana plants with three (3) or fewer being mature, flowering plants, subject to the following requirements:
 - a. Such processing, growing, possessing, or transporting of marijuana plants for personal use must be in full compliance with all applicable provisions of Article XVIII, Section 16 of the Colorado Constitution.
 - b. Except as provided below, such marijuana plants shall be possessed, grown, or processed within the primary residence of the person possessing, growing or processing the marijuana plants for personal use, as defined by subsection (4) below. No more than six (6) marijuana plants may be cultivated in a primary residence. If persons living in a primary residence desire to cultivate more than six (6) marijuana plants, such persons may cultivate no more than a total of six (6) marijuana plants per person for personal use as a permitted use in non-residential units or structures in the Industrial (I) Zone District only. No sales, or barter of cultivated marijuana is permitted. See subsection (T) below.
 - c. The possession, growing and processing of such marijuana plants must not be observable from the exterior of the primary residence, including, but not limited to:
 - i. Common visual observation, including any form of signage;
 - ii. Unusual odors, smells, fragrances, or other olfactory stimulus;
 - iii. Light pollution, glare, or brightness that disturbs others.
 - d. Marijuana plants shall not be grown or processed in the common areas of a planned community or of a multi-family or attached residential development or commercial or industrial buildings.

- e. Such cultivation, production, growing and processing of marijuana plants shall be limited to the following space limitations within a primary residence:
 - i. Within a single family dwelling (Group R-3 as defined by the International Building Code): a secure, defined, contiguous area not exceeding one hundred fifty (150) square feet within the primary residence of the person possessing, growing or processing the marijuana plants for personal use.
 - ii. Within a multi-family dwelling unit (Group R-2 as defined by the International Building Code) or a residential dwelling unit in a commercial or industrial building: a secure, defined, contiguous area not exceeding one hundred (100) square feet within the primary residence of the person possessing, growing, or processing the marijuana plants for personal use.
 - iii. Such possession, growing and processing of marijuana plants shall not occur in any accessory structure.
 - f. Such possession, growing and processing of marijuana plants shall meet the requirements of all adopted Town building and life/safety codes, including requirements concerning electrical systems and ventilation systems, as the same may be amended from time to time. In addition to these above-referenced codes and requirements, all marijuana plants shall be grown in mold resistive rooms with hard surfaces. Any person cultivating marijuana for personal use shall have an initial building and safety inspection conducted by the Town Building Official, shall comply with any conditions of said inspection, and shall submit to periodic building and safety code inspections thereafter. No odor shall be permitted to emanate from the premises.
 - g. Pursuant to Section 9-7-113, C.R.S., the use of a compressed flammable gas as a solvent in the extraction of THC or other cannabinoids is prohibited.
 - h. The possession, growing and processing of marijuana plants shall meet the requirements of all adopted water and wastewater regulations promulgated by the Town.
3. Cultivation of marijuana in a residential unit that is not a primary residence is not permitted.
4. For the purposes of this subsection “primary residence” means the place that a person, by custom and practice, makes his or her principle domicile and address to which the person intends to return, following any temporary absence, such as a vacation. Residence is evidenced by actual daily physical presence, use and occupancy of the primary residence, and the use of the residential address for domestic purposes, such as, but not

limited to, slumber, preparation of meals, package delivery, vehicle and voter registration, or credit and utility billings. A person shall have only one (1) primary residence. A primary residence shall not include accessory buildings.

5. For purposes of this subsection (S), a “secure area” means an area within the primary residence accessible only to the person possessing, growing or processing the marijuana plants for personal use. Secure premises shall be locked or partitioned off to prevent access by children, visitors, or anyone not authorized to possess marijuana.

T. Cultivation of Marijuana for Personal Use in Non-Residential Units or Buildings in Non-Residential Zone Districts (Amended 10/22/13)

The cultivation, production, or possession of marijuana plants for personal use by a person twenty-one (21) years of age or older, as permitted by Section 16 of Article XVIII of the Colorado Constitution, shall be allowed in non-residential units or buildings in the Industrial (I) Zone District as a permitted use subject to the following conditions:

1. The cultivation, production or possession of marijuana plants shall be in full compliance with all applicable provisions of Article XVIII, Section 16 of the Colorado Constitution.
2. No more than six (6) marijuana plants, with three (3) or fewer being mature, flowering plants per person may be cultivated.
3. Marijuana plants shall not be grown in the common area of any commercial or industrial building.
4. The cultivation of marijuana plants in any building or unit within Industrial (I) Zone Districts shall meet the requirements of all adopted Town building and safety codes. In addition to these codes, these personal grow operations shall meet State of Colorado standards for retail or medical marijuana grow operations. Any person cultivating marijuana for personal use shall have an initial building and safety inspection conducted by the Town, shall comply with any conditions of said inspection, and shall submit to a periodic building and safety code inspection thereafter.
5. All cultivation shall be located within a secure building. Grow operations in permanent or temporary greenhouses are not permitted.
6. No more than 36 plants may be grown in any industrial unit.
7. The cultivation of marijuana plants shall not be permitted on exterior portions of a lot or a building. The cultivation, production or possession of marijuana plants within a building or unit must not be perceptible from the exterior of the building or unit.

8. Any form of signage shall be prohibited; unusual odors, smells, fragrances or other olfactory stimulants shall be prohibited; light pollution, glare or brightness resulting from grow lamps that disturbs adjacent property shall be prohibited; and excessive noise from ventilation fans shall be prohibited.
9. Pursuant to Section 9-7-113, C.R.S., the use of a compressed flammable gas as a solvent in the extrication of THC or other cannabinoids is prohibited.

U. Retail Marijuana Businesses (Amended 08/23/2016)

1. Limitation on the Number of Retail Marijuana Stores within the Town

The number of Retail Marijuana Stores permitted within the Town is based on population. A maximum of one (1) Retail Marijuana Store shall be permitted for every 5,000 people or fraction thereof. Population shall be determined by the most recent data available from the U.S. Census Bureau and the State of Colorado Demographer's Office.

In the event more than one (1) Land Use Application for a Retail Marijuana Store of the same classification are submitted to the Town in close proximity to one another, the applications comply with all the requirements of this Chapter and the Colorado Retail Marijuana Code, but the Town is not permitted to approve all of the applications because of the limitations set forth in this subsection, the Board of Trustees shall first review for approval the application which was first submitted and determined to be complete by the Town Planner, or their designee.

2. Retail Marijuana Cultivation Facilities within the Town

The number of Retail Marijuana Cultivation Facilities permitted within the Town is based on population. A maximum of one (1) Retail Marijuana Cultivation Facility shall be permitted for every 5,000 people or fraction thereof. Population shall be determined by the most recent data available from the U.S. Census Bureau and the State of Colorado Demographer's Office.

In the event more than one(1) Land Use Application for a Retail Marijuana Cultivation Facility of the same classification are submitted to the Town in close proximity to one another, the applications comply with all the requirements of this Chapter and the Colorado Retail Marijuana Code, but the Town is not permitted to approval all of the applications because of the limitations set forth in in this subsection, the Board of Trustees shall first review for approval the application which was first submitted and determined to be complete by the Town Planner, or their designee.

3. Limitation on the Number of Retail Marijuana Products Manufacturing Facilities within the Town
The number of Retail Marijuana Products Manufacturing Facilities permitted within the Town is based on population. A maximum of two (2) Retail Marijuana Products Manufacturing Facilities shall be permitted for every 5,000 people or fraction thereof. Population shall be determined by the most recent data available from the U.S. Census Bureau and the State of Colorado Demographer's Office.

In the event more than one (1) Land Use Application for a Retail Marijuana Products Manufacturing Facility of the same classification are submitted to the Town in close proximity to one another, the applications comply with all the requirements of this Chapter and the Colorado Retail Marijuana Code, but the Town is not permitted to approve all of the applications because of the limitations set forth in this subsection, the Board of Trustees shall first review for approval the application which was first submitted and determined to be complete by the Town Planner, or their designee.

4. Permitted Locations
Retail Marijuana Stores and Retail Marijuana Cultivation Facilities shall only be located in the Commercial General (CG) and Industrial (I) Zone Districts east of Nogal Gulch pursuant to a Special Use Permit. Refer to map at the end of this Section labeled Exhibit A.

Retail Marijuana Products Manufacturing Facilities shall only be located on properties along Chambers Avenue that are within the Commercial General (CG) and Industrial (I) Zone Districts and are located a minimum of one thousand seven hundred and fifty feet (1,750') from the centerline of Eby Creek Road pursuant to a Special Use Permit. If any portion of such property is within the required minimum distance from Eby Creek Road, no Retail Marijuana Products Manufacturing Facility shall be permitted on that property. Refer to map at the end of this Section labeled Exhibit B.

5. Distance from Schools, Licensed Childcare Facilities, Alcohol or Drug Treatment Facilities and College Campus
All Retail Marijuana Businesses shall be located a minimum of one thousand feet (1000') from schools, as defined in the Colorado Retail Marijuana Code, licensed childcare facilities, alcohol or drug treatment facilities, and the campus of a college or university.
6. Distance from Residential Zone District
All Retail Marijuana Businesses shall be located a minimum of one hundred feet (100') from any residential zone district which

shall be measured from the zone district boundary line to the subject property line.

7. Restrictions on Mobile Facilities and Delivery of Marijuana Products
No Retail Marijuana Business shall be located in a movable or mobile vehicle or structure and no Retail Marijuana products shall be delivered in the Town unless such delivery is specifically permitted by the Colorado Retail Marijuana Code.
8. Hours of Operation
Retail Marijuana Stores shall limit their hours of operation to 8:00 a.m. to 12:00 a.m., Monday – Sunday, or as otherwise provided in the Special Use Permit.
9. Operation of Multiple Businesses at a Single Location
A person may operate any Medical Marijuana Business and any Retail Marijuana Business permitted by this Section at the same location if in full compliance with the requirements of the Colorado Medical Marijuana Code and the Colorado Retail Marijuana Code.
10. Specific Requirements for a Retail Marijuana Store
A Retail Marijuana Store may only sell Retail Marijuana, Retail Marijuana Products, Marijuana Accessories and non-consumable products such as apparel, and marijuana related products such as childproof packaging containers. Retail Marijuana Stores shall be prohibited from selling or giving away any consumable product, including but not limited to tobacco products or alcohol, or edible products that do not contain marijuana, including but not limited to sodas, candies or baked goods.
11. No Products to be Visible from Public Places
Marijuana plants, products, accessories, and associated paraphernalia contained in a Retail Marijuana Business shall not be visible from a public sidewalk, public street or right-of-way, or any other public place.
12. No Beer or Alcohol on Premises
No fermented malt beverages and no alcohol beverages, as defined in the Colorado Beer Code and Colorado Liquor Code, respectively, shall be kept, served or consumed on the premises of a Retail Marijuana Business.
13. Consumption of Marijuana Prohibited
No consumption or smoking of any Retail Marijuana Products shall be allowed or permitted on the premises or adjacent grounds of a Retail Marijuana Business.
14. Storage of Products

All products and accessories shall be stored completely indoors and on-site.

15. Prevention of Emissions and Disposal of Materials

Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting the business premises shall be provided at all times. In the event that any debris, dust, fluids or other substances shall exit the business premises, the property owner and operator shall be jointly and severally responsible for the full cleanup immediately.

Businesses shall properly dispose of all materials and other substances in a safe and sanitary manner in accordance with State regulations and Eagle County Landfill Regulations.

As applicable, Retail Marijuana Businesses shall be equipped with ventilation systems with carbon filters sufficient in type and capacity to eliminate marijuana odors emanating from the interior to the exterior of the premises discernible by reasonable persons. The ventilation system must be inspected and approved by the Building Official.

If carbon dioxide will be used in any cultivation area, sufficient physical barriers or a negative air pressure system shall be in place to prevent carbon dioxide from moving into the ambient air, into other units in the same building or into an adjacent building in a concentration that would be harmful to any person, including persons with respiratory disease, and shall be inspected and approved by the Building Official and the Greater Eagle Fire Protection District.

All State regulations concerning ventilation systems shall be followed.

16. Compliance with Other Codes

Any Retail Marijuana Business and the adjacent grounds of the Retail Marijuana Business shall comply with all zoning, health, building, fire and other codes and ordinances of the Town as shown by completed inspections and approvals by the Town Planner, Building Department, Greater Eagle Fire Protection District, and the Eagle County Health Department, if applicable.

17. No Harm to Public Health, Safety or Welfare

The Licensed Marijuana Premises and adjacent grounds of a Retail Marijuana Business shall be operated in a manner that does not cause any substantial harm to the public health, safety and welfare.

18. Additional Requirements

At the time a Special Use Permit is granted, amended or any time the Board of Trustees approves a major change to a Retail Marijuana Business, the Board of Trustees may impose on the Applicant any conditions related to the proposed use that is reasonably necessary to protect the public health, safety or welfare, including but not limited to the following:

- a. Additional security requirements;
- b. Limits and requirements on parking and traffic flows;
- c. Requirements for walls, doors, windows, locks and fences on the Licensed Marijuana Premises and adjacent grounds;
- d. Limits on Retail Marijuana Products that may be sold;
- e. Requirements and limits on ventilation and lighting;
- f. Limits on noise inside the licensed premises or on the adjacent grounds;
- g. Prohibitions on certain conduct in the Retail Marijuana Business;
- h. Limits on hours of operation that are more restrictive than prescribed by subsection (8) above;
- i. A requirement that the Applicant temporarily close the Retail Marijuana Business to the public until certain changes, inspections or approvals are made; and
- j. A limitation on the square footage of the Retail Marijuana Business.

19. Penalty for Violation

Any violation of the provisions of this subsection, or the conditions of the Special Use Permit granted, by a Retail Marijuana Business shall be punishable by a civil fine of up to one thousand dollars (\$1000.00). Each day that a violation is committed, exists or continues shall be deemed a separate and distinct offense. In addition, any violation of the provisions of this subsection, or any conditions imposed by the Special Use Permit may result in the revocation of the Special Use Permit.

(Ord. 26-2016 §5, 10/9/2016)

Amended 03/20/90
Amended 06/02/91
Amended 04/16/95
Amended 02/13/00
Amended 10/27/10

V. Marijuana Testing Facilities

1. Limitation on the Number of Marijuana Testing Facilities within the Town

The number of Marijuana Testing Facilities permitted within the Town is based on population. A maximum of one (1) Marijuana Testing Facility shall be permitted for every 5,000 people or fraction thereof. Population shall be determined by the most recent data available from the U.S. Census Bureau and the State of Colorado Demographer's Office.

In the event more than one (1) Land Use Application for a Marijuana Testing Facility of the same classification are submitted to the Town in close proximity to one another, the applications comply with all the requirements of this Chapter, the Colorado Medical Marijuana Code and the Colorado Retail Marijuana Code, but the Town is not permitted to approve all of the applications because of the limitations set forth in this subsection, the Board of Trustees shall first review for approval the application which was first submitted and determined to be complete by the Town Planner, or their designee.

2. Permitted Locations

Marijuana Testing Facilities shall only be located on properties along Chambers Avenue that are within the Commercial General (CG) and Industrial (I) Zone Districts and are located a minimum of one thousand seven hundred and fifty feet (1,750') from the centerline of Eby Creek Road pursuant to a Special Use Permit. If any portion of such property is within the required minimum distance from Eby Creek Road, no Marijuana Testing Facility shall be permitted on that property. Refer to map at the end of this Section labeled Exhibit B.

3. Distance from Schools, Licensed Childcare Facilities, Alcohol or Drug Treatment Facilities and College Campus

All Marijuana Testing Facilities shall be located a minimum of one thousand feet (1,000') from schools, as defined in the Colorado Medical Marijuana Code and the Colorado Retail Marijuana Code, licensed childcare facilities, alcohol or drug treatment facilities, and the campus of a college or university.

4. Distance from Residential Zone District

All Marijuana Testing Facilities shall be located a minimum of one hundred feet (100') from any residential zone district which shall be measured from the zone district boundary line to the subject property line.

5. Restrictions on Mobile Facilities and Delivery of Marijuana Products

No Marijuana Testing Facility shall be located in a movable or mobile vehicle or structure and no marijuana products shall be delivered in the Town unless such delivery is specifically permitted by the Colorado

Medical Marijuana Code or the Colorado Retail Marijuana Code.

6. Hours of Operation
Marijuana Testing Facilities shall limit their hours of operation to 8:00 a.m. to 12:00 a.m., Monday – Sunday, or as otherwise provided in the Special Use Permit.
7. Operation of Multiple Businesses at a Single Location
A person may operate any Medical Marijuana Business and any Retail Marijuana Business permitted by this Section at the same location if in full compliance with the requirements of the Colorado Medical Marijuana Code and the Colorado Retail Marijuana Code.
8. No Products to be Visible from Public Places
Marijuana plants, products, accessories, and associated paraphernalia contained in a Marijuana Testing Facility shall not be visible from a public sidewalk, public street or right-of-way, or any other public place.
9. No Beer or Alcohol on Premises
No fermented malt beverages and no alcohol beverages, as defined in the Colorado Beer Code and Colorado Liquor Code, respectively, shall be kept, served or consumed on the premises of a Marijuana Testing Facility.
10. Consumption of Marijuana Prohibited
No consumption or smoking of any marijuana products shall be allowed or permitted on the premises or adjacent grounds of a Marijuana Testing Facility.
11. Storage of Products
All products and accessories shall be stored completely indoors and on-site.
12. Prevention of Emissions and Disposal of Materials
Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting the business premises shall be provided at all times. In the event that any debris, dust, fluids or other substances shall exit the business premises, the property owner and operator shall be jointly and severally responsible for the full cleanup immediately.

Testing Facilities shall properly dispose of all materials and other substances in a safe and sanitary manner in accordance with State regulations and Eagle County Landfill regulations.

As applicable, Marijuana Testing Facilities shall be equipped with ventilation systems with carbon filters sufficient in type and capacity to eliminate marijuana odors emanating from the interior to the exterior of the premises discernible by reasonable persons. The ventilation system must be inspected and approved by the Building Official.

All State regulations concerning ventilation systems shall be followed.

13. Compliance with Other Codes

Any Marijuana Testing Facility and the adjacent grounds of the Marijuana Testing Facility shall comply with all zoning, health, building, fire and other codes and ordinances of the Town as shown by completed inspections and approvals by the Town Planner, Building Department, Greater Eagle Fire Protection District, and the Eagle County Health Department, if applicable.

14. No Harm to Public Health, Safety or Welfare

The Licensed Marijuana Premises and adjacent grounds of a Marijuana Testing Facility shall be operated in a manner that does not cause any substantial harm to the public health, safety and welfare.

15. Additional Requirements

At the time a Special Use Permit is granted, amended or any time the Board of Trustees approves a major change to a Marijuana Testing Facility, the Board of Trustees may impose on the Applicant any conditions related to the proposed use that is reasonably necessary to protect the public health, safety or welfare, including but not limited to the following:

- a. Additional security requirements;
- b. Limits and requirements on parking and traffic flows;
- c. Requirements for walls, doors, windows, locks and fences on the Licensed Marijuana Premises and adjacent grounds;
- d. Requirements and limits on ventilation and lighting;
- e. Limits on noise inside the licensed premises or on the adjacent grounds;
- f. Prohibitions on certain conduct in the Marijuana Testing Facility;
- g. Limits on hours of operation that are more restrictive than prescribed by subsection (6) above;
- h. A requirement that the applicant temporarily close the Marijuana Testing Facility to the public until certain changes, inspections or approvals are made; and
- i. A limitation on the square footage of the Marijuana Testing Facility.

(Ord. 26-2016 §5, 10/9/2016)

Exhibit A. Area where Medical Marijuana Centers, Optional Medical Marijuana Cultivation Premises, Retail Marijuana Stores, and Retail Marijuana Cultivation Facilities are permitted.



Exhibit B. Area where Medical Marijuana Infused Products Manufacturers, Retail Marijuana Products Manufacturers, and Marijuana Testing Facilities are permitted.



Amended 10/09/16

INCLUSIONARY RESIDENTIAL REQUIREMENTS FOR LOCAL EMPLOYEE RESIDENCY

- A. Purpose. The purpose of this Section is to mitigate the impact of market rate housing construction on the limited supply of available land suitable for housing, and to increase the supply of housing that is affordable to a broad range of persons who live and/or work in the Town. In recent years, the cost of housing has increased at a rate much faster than the increases in the earnings of low to moderate-income households. This Section will prevent the Town of Eagle's land use regulations applicable to residential development from having the effect of excluding housing that meets the needs of all economic groups within Eagle.

This Section requires new residential development to provide at least 10% of the housing that it produces to be affordable to lower and moderate income households as further defined in the Local Employee Residency Requirements and Guidelines. Local Employee Residences shall be obtainable by persons having lower and median incomes, paying not more than 33% of their household income for mortgage principal and interest payments, insurance, and property taxes, but excluding homeowners' association assessments. Local Employee Residences should be disbursed throughout the community and, when possible, integrated into the existing community fabric.

The Town of Eagle recognizes that affordable housing is a valuable community resource that needs to remain available not only for current residents and employees, but also for those who may come to the area in the future. For this reason, deed restrictions or other methods that assure that prices remain affordable over time are necessary.

- B. Definitions. The terms, phrases, works and clauses used in this Section shall have the meaning assigned below. Any terms, phrases, words, and clauses not defined herein shall have the meaning as defined in other parts of the Eagle Municipal Code. Any terms, phrases, or works not defined in such Code shall have the meaning assigned in Webster's Third New International Dictionary, 1993, unabridged.
1. Area Median Income: Median family income estimates and program income limits compiled and released annually by the U.S. Department of Housing and Urban Development. Such figures shall be utilized by the Town in the establishment of initial maximum sales proceeds for Local Employee Residences.
 2. Development: The division of a parcel of land into two (2) or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; any excavation or other land disturbance; or any use or extension of use that alters the character of the property.
 3. Dwelling: A building or portion thereof or a mobile home used for residential occupancy, not including motels, hotels, or other overnight lodging accommodations.
 4. Dwelling, Two-Family: One building on one lot designed to be occupied by

two families living independently of each other.

5. Local Employee Residence: A residential lot or separate dwelling unit that is deed restricted in accordance with the Town of Eagle's Local Employee Residency Requirements and Guidelines, and in accordance with a deed restriction approved by the Board of Trustees or its designee.
 6. Local Employee Residency Requirements and Guidelines: The requirements and guidelines adopted by resolution of the Board of Trustees, from time to time, which may include, but shall not be limited to, standards concerning the procedure for qualifying to own or rent Local Employee Residences; the requirements (e.g., residency) for qualifying to own or rent Local Employee Residences; forms of approved deed restrictions; limitations on appreciation of sale prices of Local Resident Housing; procedures for sale of Local Employee Residences; priorities for persons bidding to purchase Local Employee Residences; occupancy requirements; size, rental, and sales price limitations; maximum sales and rental rate increases; standards for the number of residents per dwelling unit; quality of construction requirements for new Local Employee Residences; and possible incentives for the construction of Local Employee Residences. The Local Employee Residency Requirements and Guidelines, and any subsequent amendments thereto, shall be adopted following a duly noticed public hearing at which such guidelines are considered.
- C. Applicability: Local Employee Residences shall be required as a condition of approval for all residential development including residential annexations, residential planned unit developments (PUDs) (Chapter 4.11), residential subdivisions (Chapter 4.12), and multi-family residential development permits (Chapter 4.06), as well as special use permits for high-density multi-family dwellings in the Residential Multi-Family (RMF) and Central Business District (CBD) Zone Districts (Section 4.05.010).
- D. Exemptions: The following development is exempt from the requirements of this Section:
1. Development of Local Employee Residences.
 2. Proposed residential development of less than ten (10) units or lots to be located on one or more contiguous parcels of land held under the same or substantially the same ownership.
 3. Development which is exempt by virtue of a vested property right pursuant to a site specific development plan as defined and established in accordance with Section 24-68-103, C.R.S. and Chapter 4.17 of the Eagle Municipal Code prior to the effective date of this Section, or which is otherwise specifically exempt pursuant to an ordinance of the Town.
- E. Residential Development Requirements
1. Number of Local Employee Residences Required. All residential annexations, new residential subdivisions, new planned unit developments

containing residential units, development permits for new multi-family residential developments and special use permits for high density multi-family dwellings, approved after the effective date of this Section, containing ten (10) or more residential units, shall set aside at least 10% of those units as Local Employee Residences as defined in this Section and the Town's Local Employee Residency Requirements and Guidelines. In addition, the developer of such project shall construct Local Employee Residences in accordance with the Local Employee Residency Requirements and Guidelines. For those development of less than thirty (30) units whose calculation results in a fraction of a unit, the local Employee Residence requirement shall be rounded down to the nearest integer. For those developments of thirty (30) or more residential units whose calculation results in a fraction of a unit, the Local Employee Residence requirement shall be rounded to the nearest integer (up or down).

2. Determination of Mix Units. The mix of Local Employee Residences available for purchase shall average a price affordable to households earning 90% of the Maximum Income Limits as set forth in the Town's Local Employee Residency Requirements and Guidelines. The affordable price shall be calculated based on mortgage principal, interest, taxes, and insurance, not to exceed 33% of gross household income. The calculation shall assume a 95% loan to value ratio, and a 30-year mortgage at prevailing interest rates. The average price may be achieved by providing units affordable to households not greater than 100% of the Maximum Income Limits as set forth in the Town's local Employee Residency Requirements and Guidelines.
3. Location and Character of Local Employee Residences. Local Employee Residences shall be distributed throughout the proposed development, to the extent possible. Off-site housing will not be approved. A cash payment in lieu of Local Employee Residences shall not be permitted. The proposed character and density of Local Resident Housing units shall be compatible with the surrounding land uses and neighborhood character, and suitable for the proposed site. Development and construction of Local Resident Housing units shall comply with all other requirements of Title 4 of the Eagle Municipal Code.
4. Schedule for Construction of Local Employee Residences. A developer shall construct the required Local Employee Residences prior to, or concurrently and proportionally with, the production of market rate housing or the sale of market rate lots. Prior to receiving development approval, the developer shall provide the Town with a proposed construction schedule for approval by the Town that clearly delineates the start and completion dates of the production of market rate units and/or the sale of market rate lots and the construction of Local Employee Residences in accordance with the Town's Local Employee Residency Requirements and Guidelines.
5. Deed Restrictions. All Local Employee Residences required by this Section shall be deed restricted, in accordance with the requirements of the Local Employee Residency Requirements and Guidelines, and as approved

by the Town Attorney, as to rental or ownership and occupancy by persons and as to the resale price of the unit. The deed restriction shall be provided to the developer for review at the time of approval of the developer's Local Employee Residency Plan. Prior to the issuance of any building permit within the development, the Town shall have an approved, executed and recorded deed restriction for all Local Employee Residence lots or units in the project or phase of the project, if applicable. Such deed restrictions shall not be subject to any recorded liens or encumbrances.

- F. Local Employee Residency Plan. All applications for approval of a subdivision preliminary plan, planned unit development plan, development permit or special use permit for high density multi-family dwellings, containing ten (10) or more residential units, shall be accompanied by a Local Employee Residency Plan, unless otherwise determined by the Town Planner. Such plan shall contain sufficient information to allow the Town to determine the Plan's compliance with this Section and the Town's Local Employee Residency Requirements and Guidelines. The local Employee Residency Plan shall include, but shall not be limited to, the information specifically required by the Town's Local Employee Residency Requirements and Guidelines.

Upon receipt of a complete proposed Local Employee Residency Plan, the Town Planner shall evaluate the plan for compliance with this Section and the Town's Local Employee Residency Requirements and Guidelines. The Town Planner may make a recommendation of approval, recommendation of approval with appropriate conditions, or a recommendation of denial. Following receipt of the Town Planner's recommendation, and as a part of the Town's procedures for review and final approval of any application for an annexation, planned unit development, subdivision, development permit, or special use permit for high density multi-family dwellings, containing ten (10) or more residential units, the Town Board, Planning Commission or administrative staff member vested with authority to approve any such development may approve the Plan, approve the Plan with appropriate conditions consistent with the Town's Local Employee Residency Requirements and Guidelines, or deny approval of such Plan. No application for annexation, subdivision final approval, planned unit development plan approval, development permit approval, or special use permit approval for high density multi-family dwellings, containing ten (10) or more residential units, shall be granted unless the Local Employee Residency Plan is approved or approved subject to conditions by the Town.

Amended 09/08/02