

PROOF OF PUBLICATION

STATE OF COLORADO)
)
COUNTY OF EAGLE)

I, Jenny Rakow, Town Clerk for the Town of Eagle, do solemnly swear and affirm that I published in full a true and correct copy of TOWN OF EAGLE, COLORADO ORDINANCE NO. 11 Series of 2021, “AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF EAGLE, COLORADO AMENDING SECTION 4.04.100 OF THE EAGLE MUNICIPAL CODE TO STREAMLINE RETAIL MARIJUANA BUSINESS ZONING REGULATIONS, SECTION 5.15.150 TO PERMIT ADMINISTRATIVE APPROVALS OF MEDICAL MARIJUANA BUSINESS LICENSE RENEWAL APPLICATIONS AND CREATING A NEW CHAPTER 5.17 TO ADDRESS THE LICENSING AND REGULATION OF RETAIL MARIJUANA BUSINESSES” on the Town of Eagle’s web site, www.townofeagle.org, on the 11th day of August, 2021.

Witness my hand and seal this 11th day of August 2021.



Jenny Rakow
Town Clerk



Ordinance Effective Date:,
August 22, 2021

TOWN OF EAGLE, COLORADO
ORDINANCE NO. 11
(Series of 2021)

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF EAGLE, COLORADO AMENDING SECTION 4.04.100 OF THE EAGLE MUNICIPAL CODE TO STREAMLINE RETAIL MARIJUANA BUSINESS ZONING REGULATIONS, SECTION 5.15.150 TO PERMIT ADMINISTRATIVE APPROVALS OF MEDICAL MARIJUANA BUSINESS LICENSE RENEWAL APPLICATIONS AND CREATING A NEW CHAPTER 5.17 TO ADDRESS THE LICENSING AND REGULATION OF RETAIL MARIJUANA BUSINESSES

WHEREAS, retail and medical marijuana are permitted in the Town where the business obtains the requisite license;

WHEREAS, licenses must be renewed periodically through the Local Licensing Authority;

WHEREAS, the Eagle Municipal Code does not currently specifically address the licensing or regulation of retail marijuana businesses; and

WHEREAS, the Town Council finds that it is desirable and necessary, and in the best interest of the public health, safety and welfare, that permitting administrative approvals of medical marijuana business license renewal applications and a separate chapter addressing retail marijuana businesses be approved.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF EAGLE, COLORADO AS FOLLOWS:

Section 1. Section 4.04.100(U) of the Eagle Municipal Code is hereby repealed and reenacted as follows:

U. Retail marijuana businesses.

1. *Limitation on the number of retail marijuana stores within the Town.*

a. The number of retail marijuana stores permitted within the Town is based on population. A maximum of one 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 demographer's office.

b. In the event more than one 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, Chapter 5.17 of this 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 (U), 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.*

a. The number of retail marijuana cultivation facilities permitted within the Town is based on population. A maximum of one 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 demographer's office.

b. In the event more than one 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, Chapter 5.17 of this 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 (U), 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.*

a. The number of retail marijuana products manufacturing facilities permitted within the Town is based on population. A maximum of two retail marijuana products manufacturing 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 demographer's office.

b. In the event more than one 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, Chapter 5.17 of this 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 (U), 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.*

a. Retail marijuana stores and retail marijuana cultivation facilities shall only be located in the Commercial General (CG) and Industrial (I) Zone Districts and are located a minimum of 1,750 feet from the centerline of Eby Creek Road pursuant to a special use permit. Refer to map at the end of this section labeled Exhibit A.

b. 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 1,750 feet 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 A.

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 1,000 feet 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 100 feet from any residential zone district which shall be measured from the zone district boundary line to the subject property line.

Section 2. Section 5.15.150 of the Eagle Municipal Code is hereby amended with the addition of subsection 5.15.150(E) as follows.

Section 5.15.150. – Renewal of medical marijuana business license.

* * *

E. The Local Licensing Authority may renew a license by an administrative approval process whereby a public hearing is not necessary.

Section 3. Chapter 5.17 of the Eagle Municipal Code is hereby created and enacted as follows:

CHAPTER 5.17. – LICENSING AND REGULATION OF RETAIL MARIJUANA BUSINESSES

Section 5.17.010. – Legislative intent and purpose.

The purpose of this Chapter is to implement the provisions of the Colorado Retail Marijuana Code, C.R.S. § 44-12-101, *et seq.*, which authorizes the licensing and

regulation of retail marijuana businesses and affords local government the option to determine whether to allow retail marijuana businesses within their respective jurisdictions and to adopt licensing requirements that are supplemental to or more restrictive than the requirements set forth in State law.

Section 5.17.020. – Authority.

The Town Council hereby finds, determines and declares that it has the power to adopt this Chapter pursuant to:

1. Article XVIII, Section 16 of the Colorado Constitution;
2. The Colorado Retail Marijuana Code, C.R.S. § 44-12-101, *et seq.*;
3. The Local Government Land Use Control Enabling Act, C.R.S. § 29-20-101, *et seq.*;
4. The Town's Home Rule Charter; and
5. C.R.S. §§ 31-15-103, -401, and -501.

Section 5.17.030. – Definitions.

A. For purposes of this Chapter, the following terms shall have the following meanings:

Applicant means a person 21 years of age or older who has submitted an application for a license or renewal of a license issued pursuant to this Chapter. If the applicant is an entity and not a natural person, *applicant* shall include all persons who are the members, managers, officers and directors of such entity.

Consumer means a person 21 years of age or older who purchases marijuana or marijuana products for personal use by a person 21 years of age or older, but not for resale to others.

Controlling beneficial owner shall have the same meaning as provided in the Colorado Retail Marijuana Code and any rules and regulations that may be promulgated by the Colorado Department of Revenue.

Criminal justice agency means any federal, State, or municipal court or any governmental agency or sub-unit of such agency that performs the administration of criminal justice pursuant to a statute or executive order and that allocates a substantial part of its annual budget to the administration of criminal justice.

Cultivation or cultivate means the process by which a person grows a marijuana plant.

Dual operation means a business that operates as both a licensed medical marijuana business and a licensed retail marijuana establishment.

Good cause (for the purpose of refusing or denying a license renewal under this Chapter) means: (1) the licensee has violated, does not meet, or has failed to comply with any of the terms, conditions or provisions of this Chapter and any rule and regulation promulgated pursuant to this Chapter; (2) the licensee has failed to comply with any special terms or conditions that were placed on its license at the time the license was issued, or that were placed on its license in prior disciplinary proceedings or that arose in the context of potential disciplinary proceedings; or (3) the licensee's retail marijuana establishment has been operated in a manner that adversely affects the public health, welfare or safety of the immediate neighborhood in which the retail marijuana establishment is located. Evidence to support such a finding can include: (i) a continuing pattern of offenses against the public peace, as defined in Chapter 9.12; (ii) a continuing pattern of drug-related criminal conduct within the premises in the immediate area surrounding the premises arising out of the operation of the establishment; or (iii) a continuing pattern of criminal conduct directly related to or arising from the operation of the retail marijuana establishment.

Industrial hemp product means a finished product containing industrial hemp that:

1. Is a cosmetic, food, food additive, or herb;
2. Is for human use or consumption;
3. Contains any part of the hemp plant, including naturally occurring cannabinoids, compounds, concentrates, extracts, isolates, resins, or derivatives; and
4. Contains a delta-9 tetrahydrocannabinol concentration of no more than three-tenths of one percent.

License means a document issued by the Town officially authorizing an applicant to operate a retail marijuana establishment pursuant to this Chapter.

Licensed premises means the premises specified in an application for a license under this Chapter, which is owned or in possession of the licensee and within which the licensee is authorized to distribute or sell retail marijuana or retail marijuana products in accordance with State and local law.

Local licensing authority means the Town Council of the Town of Eagle.

Marijuana means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. *Marijuana* does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

Marijuana accessories means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

Person means a natural person, partnership, association, company, corporation, limited liability company or organization.

Retail marijuana means marijuana that is cultivated, manufactured, distributed or sold by a licensed retail marijuana establishment.

Retail marijuana cultivation facility means an entity licensed to cultivate, prepare, and package marijuana and sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

Retail marijuana establishment means a retail marijuana store, a retail marijuana cultivation facility, or a retail marijuana products manufacturing operation.

Retail marijuana product manufacturing facility means an entity licensed to purchase marijuana; manufacture, prepare, and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

Retail marijuana products means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients that are intended for use or consumption, such as but not limited to, edible products, ointments and tinctures.

Retail marijuana store means an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing facilities and to sell marijuana and marijuana products to consumers.

Retail marijuana testing facility means an entity licensed by the Town and by the State of Colorado to analyze and certify the safety and potency of marijuana.

State licensing authority means the authority created by the Colorado Department of Revenue for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, sale and testing of retail marijuana in the State of Colorado pursuant to C.R.S. § 44-12-201.

B. In addition to the definitions provided in Subsection (A) hereof, other terms used in this Chapter shall have the meaning ascribed to them in Article XVIII, § 16 of the Colorado Constitution, or the Colorado Retail Marijuana Code, and such definitions are hereby incorporated into this Chapter by reference.

Section 5.17.040. – License required.

It is unlawful to establish or operate a retail marijuana establishment in the Town without first having obtained a license for such business from the Local Licensing Authority pursuant to this Chapter.

Section 5.17.050. – Application.

A. Applications for a license shall be submitted to the Town Clerk, with a nonrefundable application fee in the amount set by resolution of the Town Council. The applicant shall additionally present one of the following forms of identification:

1. An operator's, chauffer's or similar type of driver's license issued by any state within the United States or a U.S. territory;
2. An identification card, issued by any state for purpose of proving age using requirements similar to those in C.R.S. §§ 42-2-302 and 42-2-303;
3. A United States military identification card;
4. A valid passport; or
5. An enrollment card issued by the government authority of a federally recognized tribe.

B. Each applicant shall also provide all of the following information on a form approved by, or acceptable to the Town, which information shall be

required for the applicant, and all persons having a 10% or more financial interest in the retail marijuana establishment that is the subject of the application or, if the applicant is an entity, having a 10% or more financial interest in the entity:

1. Name, address and date of birth;
2. Suitable evidence of proof of lawful presence and good character and reputation that the Town may request;
3. An acknowledgment and consent that the Town will conduct a background investigation, including a criminal history check, and that the Town will be entitled to full and complete disclosure of all financial records of the retail marijuana establishment, including records of deposit, withdrawals, balances and loans;
4. If the applicant is a business entity, information regarding the entity, including without limitation, the name and address of the entity, its legal status, and proof of registration with, or a certificate of good standing from, the Colorado Secretary of State, as applicable;
5. The name and complete address of the proposed retail marijuana establishment, including the facilities to be used in furtherance of such business, whether or not such facilities are, or are planned to be, within the territorial limits of the Town;
6. If the applicant is not the owner of the proposed licensed premises, a notarized statement from the owner of such property authorizing the use of the property for a retail marijuana establishment;
7. A copy of any deed, lease, contract or other document reflecting the right of the applicant to possess the proposed licensed premises along with any conditions of occupancy of the premises;
8. Evidence of a valid sales tax license for the business;
9. If the retail marijuana store will be providing retail marijuana products in edible form, evidence of at a minimum a pending application for any food establishment license or permit that may be required by the State;
10. A "to scale" diagram of the premises, showing, without limitation, a site plan, building layout, all entry ways and exits to the marijuana establishment, loading zones and all areas in which retail marijuana will be stored or dispensed;

11. A comprehensive business operation plan for the retail marijuana establishment which shall include, at a minimum, the following:

- a. A copy of the Articles of Incorporation or Partnership/Operating Agreement for the licensee's business entity;
- b. A security plan meeting the requirements of Section 5.17.220;
- c. A description by category of all products to be sold;
- d. A signage plan in compliance with all applicable requirements of this Chapter, other applicable provisions of this Code and other applicable law;
- e. A plan for the disposal of marijuana and related byproducts; and
- f. Minimum hours of operation consistent with this Chapter.

12. Any additional information that the Local Licensing Authority reasonably determines to be necessary in connection with the investigation and review of the application.

C. The applicant shall verify the truthfulness of the information required by this Section by the applicant's signature on the application.

D. A license issued pursuant to this Chapter does not eliminate the need for other required permits or licenses related to the operation of the retail marijuana establishment, including without limitation a license from the State and any development approvals or building permits required by this Code.

E. Upon receipt of a complete application, the Town Clerk shall circulate the application to all affected departments of the Town to determine whether the application is in full compliance with all applicable laws, rules and regulations.

F. Upon receipt of an application for a new license, the Town Clerk shall schedule a public hearing on the application to be held not less than 30 days after the date of the completed application. The Local Licensing Authority shall cause a notice of such hearing to be posted in a conspicuous place upon the proposed licensed premises and published in a newspaper of general circulation within the Town not less than 10 days prior to the hearing. Such posted notice given by posting shall include a sign of suitable material, not less than 22 inches wide and 26 inches high, composed of letters of not less than one inch in height. Both the posted and the published notice shall state the type of license applied for, the date of the hearing, the name and address of the applicant, and such other information as may be required to fully apprise the public of the nature of the application.

G. Not less than 5 days prior to the date of the public hearing for a new license, the Local Licensing Authority shall cause its preliminary findings based on its investigation to be known in writing to the applicant and other parties in interest. The Local Licensing Authority shall deny any application that does not meet the requirements of this Chapter. The Local Licensing Authority shall also deny any application that contains any false, misleading or incomplete information. The Local Licensing Authority may also deny or refuse to issue a license for good cause. Denial of an application for a license shall not be subject to further administrative review but only to review by a court of competent jurisdiction.

H. Before a decision approving or denying the application for a local license, the Local Licensing Authority may consider, except where this Chapter specifically provides otherwise, the facts and evidence adduced as a result of its investigation, as well as any other facts pertinent to the type of license for which application has been made, including the number, type and availability of retail marijuana establishments located in or near the premises under consideration, and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed. The Local Licensing Authority shall issue its decision within 90 days of the receipt of the complete license application. Such decision shall state the reasons for the decision and shall be sent via certified mail to the State and the applicant at the address shown in the application.

I. The Town shall, prior to issuance of a license, perform an inspection of the proposed licensed premises to determine compliance with any applicable requirements of this Code.

Section 5.17.060. – Retail marijuana stores.

A. A licensed retail marijuana store may sell up to one ounce of retail marijuana or its equivalent in retail marijuana concentrate or retail marijuana products to persons 21 years of age or older during a single sales transaction.

B. The following forms of identification may be accepted for purposes of determining the requisite age of 21 years or older: a valid driver's license or any other valid government-issued picture identification that demonstrates that the holder of the identification is 21 years of age or older.

C. All retail marijuana offered for sale and distribution shall be packaged and labeled in accordance with State law.

D. Retail marijuana stores are prohibited from selling retail marijuana or retail marijuana products over the internet.

E. Retail marijuana stores are prohibited from selling or giving away any consumable product that is not a retail marijuana product or industrial hemp product, including without limitation cigarettes or tobacco products, alcohol beverages, and food products other than non-alcohol beverages that are not retail marijuana products or industrial hemp products.

F. 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 of the premises of a retail marijuana business.

G. Retail marijuana stores shall be open for business according to the hours of operation set forth in the licensee's business operation plan and not to exceed the hours set forth in this Chapter.

H. Retail marijuana stores may sell or transfer industrial hemp products to a consumer only after the licensee has confirmed:

1. That the industrial hemp product has passed all required testing pursuant to the Colorado Retail Marijuana Code and the regulations promulgated in conformance therewith; and

2. That the person transferring the industrial hemp product to the retail marijuana store is registered with the Colorado Department of Public Health and Environment pursuant to C.R.S. § 25-5-426.

Section 5.17.070. – Restrictions on mobile facilities and deliveries.

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.

Section 5.17.080. – Persons prohibited as licensees and employees.

A. No license shall be issued to, held by, or renewed by any of the following:

1. Any person until all applicable fees have been paid;

2. Any person who is not of good moral character satisfactory to the Local Licensing Authority;

3. Any corporation, any of whose officers, directors or stockholders are not of good moral character satisfactory to the Local Licensing Authority;

4. Any partnership, association or company, any of whose officers are not of good moral character satisfactory to the Local Licensing Authority;

5. Any person employing, assisted by, or financed in whole or in part by any other person who is not of good character and reputation satisfactory to the Local Licensing Authority;

6. Any sheriff, deputy sheriff, police officer, prosecuting officer, and State or Local Licensing Authority or any of its members, inspectors or employees;

7. Any natural person under 21 years of age;

8. Any person who has discharged a sentence for a felony conviction within the past 5 years;

9. Any person who, at any time, has been convicted of a felony for drug possession, distribution or use, unless such felony drug charge was based on possession or use of marijuana or marijuana concentrate that would not be a felony if the person were convicted of the offense on the date they applied for the license;

10. Any entity whose directors, shareholders, partners or other persons having a financial interest in said entity do not meet the criteria set forth above;

11. Any person who employs another person at a retail marijuana establishment who has not submitted fingerprints for a criminal record history check or whose criminal record history check reveals the employee is ineligible; or

12. Any person who has made a false, misleading or fraudulent statement on their application.

B. No licensee shall employ or contract with any of the following to perform work functions directly related to the possession, cultivation, dispensing, selling, serving or delivering of marijuana:

1. Any person who is not of good moral character satisfactory to the Local Licensing Authority;

2. Any person who is under 21 years of age;

3. Any person who has discharged a sentence for a felony conviction within the past 5 years;

4. Any person who, at any time, has been convicted of a felony for drug possession, distribution or use, unless such felony drug charge was based on possession or use of marijuana or marijuana concentrate that would not be a

felony if the person were convicted of the offense on the date they applied for the license; or

5. Any sheriff, deputy sheriff, police officer, prosecuting officer, and State or Local Licensing Authority or any of its members, inspectors or employees.

C. Jurisdiction.

1. In investigating the qualifications described herein, the Local Licensing Authority may have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. In the event the Local Licensing Authority takes into consideration information concerning the applicant's criminal history record, the Local Licensing Authority shall also consider any information provided by the applicant regarding such criminal history record, including without limitation evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of the application for a license.

Section 5.17.090. – Issuance of license; duration; renewal.

A. Upon issuance of a license, the Town shall provide the licensee with one original of such license for each retail marijuana establishment to be operated by the licensee in the Town. Each such copy shall show the name and address of the licensee, the type of facility or establishment for which it is issued, and the address of the facility at which it is to be displayed.

B. Each license shall be valid for one year from the date of issuance and may be renewed for additional annual terms as provided in this Chapter. An application for renewal shall be made at least 45 days prior to the date of expiration of the license. A licensee may submit to the Local Licensing Authority a late renewal application on the prescribed forms and pay a non-refundable late application fee in an amount of \$500 for a renewal application made less than 45 days prior to the date of the expiration of the license. All other provisions concerning renewal applications apply to a late renewal application. The timely filing of a completed renewal application or a late renewal application shall extend the current license until a decision is made on the renewal.

C. Notwithstanding State law to the contrary, a licensee whose license expires and for which a renewal application has not been received by the expiration date shall be deemed to have forfeited its license under this Chapter. The Town shall not accept renewal applications after the expiration date of such license.

D. A licensee whose license expires shall not distribute or sell retail marijuana or retail marijuana products until all necessary new licenses have been obtained.

E. The Local Licensing Authority may renew a license by an administrative approval process whereby a public hearing is not necessary.

Section 5.17.100. – Authority to impose conditions on license.

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. The Local Licensing Authority shall have the authority to impose such reasonable terms and conditions on a license as may be necessary to protect the public health, safety and welfare, and to obtain compliance with the requirements of this Chapter and applicable law, including without limitation:

1. Additional security requirements;
2. Limits and requirements on parking and traffic flows;
3. Requirements for walls, doors, windows, locks and fences on the licensed marijuana premises and adjacent grounds;
4. Limits on retail marijuana products that may be sold;
5. Requirements and limits on ventilation and lighting;
6. Limits on noise inside the licensed premises or on the adjacent grounds;
7. Prohibitions on certain conduct in the retail marijuana business;
8. Limits on hours of operation that are more restrictive than prescribed in this Chapter;
9. A requirement that the applicant temporarily close the retail marijuana business to the public until certain changes, inspections or approvals are made; and
10. A limitation on the square footage of the retail marijuana business.

Section 5.17.110. – Fees.

At the time of submittal of an application for a license or renewal of a license, the licensee shall pay to the Town a fee in an amount determined by the Town by separate resolution to be sufficient to cover the annual cost of inspections conducted pursuant to Section 5.17.310, or the purpose of determining compliance with the provisions of this Chapter and any other applicable State or local laws or regulations; and

Section 5.17.120. – Display of license.

- A. Each license shall be limited to use at the premises specified in the application for such license.
- B. Each license shall be continuously posted in a conspicuous location at the retail marijuana establishment.

Section 5.17.130. – Management of licensed premises.

- A. Licensees who are natural persons shall either manage the licensed premises themselves or employ a separate and distinct manager on the premises and report the name of such manager to the Local Licensing Authority. Licensees that are entities shall employ a manager on the premises and report the name of the manager to the Local Licensing Authority.
- B. All managers shall be natural persons who are at least 21 years of age. No manager shall be a person who has discharged a sentence for a felony conviction within the past 5 years, or who has been convicted of a felony for drug possession, distribution or use, unless such felony charge was based on possession or use of marijuana or marijuana concentrate that would not be a felony if the person were convicted of the offense on the date they applied for the license.

Section 5.17.140. – Change in manager; change in financial interest.

- A. A licensee shall report any change in managers to the Local Licensing Authority within 30 days after the change. Such report shall include all information required by this Chapter.
- B. A licensee shall report in writing to the Local Licensing Authority any change in the license holder's Controlling Beneficial Owner(s) within 45 days of the change. A report shall be required for any transfer of the capital stock of a public corporation totaling more than 10% of the stock in any one year, as well as any transfer of a controlling interest in the corporation whenever a sufficient number of shares have been transferred to effectuate the transfer of a controlling interest. No person having or acquiring a financial interest in the retail marijuana establishment that is the subject of a license shall be a person

who has discharged a sentence for a felony conviction within the past 5 years, or who has been convicted of a felony for drug possession, distribution or use, unless such felony charge was based on possession or use of marijuana or marijuana concentrate that would not be a felony if the person were convicted of the offense on the date they applied for the license.

C. When a licensee causes a change in its officers, directors or manager, and a license addendum is required to be filed with the State, an application fee as set forth by separate resolution shall be paid to the Town at the time of filing the addendum with the Town.

Section 5.17.150. – Transfer of ownership; change of location.

A. Transfer of ownership. For a transfer of ownership, a license holder shall apply to the State and Local Licensing Authority on forms provided by the State Licensing Authority. In considering whether to permit a transfer of ownership, the Local Licensing Authority shall consider only the requirements of this Chapter, the Colorado Retail Marijuana Code, and the regulations promulgated in conformance therewith. The Local Licensing Authority may hold a hearing on the application for a transfer of ownership, but such hearing shall not be held until a notice of such hearing has been posted on the licensed premises for a period of at least 10 days prior to such hearing, and the applicant has been provided at least 10 days prior notice of such hearing.

B. Change of location. A licensee from another jurisdiction that has previously obtained a license from the State and any other local licensing authority as applicable may move their permanent location to the Town so long as the applicant and the new location conform to the requirements of this Chapter.

Section 5.17.160. – Hours of operation; dual operations.

A. A retail marijuana business may open no earlier than 8:00 a.m. and shall close no later than midnight the same day. A retail marijuana business may be open 7 days a week.

B. A retail marijuana business shall be open for business at least 30 hours per week and at least 49 weeks per year.

C. A person may operate any medical marijuana business and any retail marijuana business at a single location if in full compliance with this Code and with the requirements of the Colorado Medical Marijuana Code and Colorado Retail Marijuana Code.

Section 5.17.170. – Signage and advertising.

All signage and advertising for a retail marijuana establishment shall comply with all applicable State laws as well as this Chapter and other applicable provisions of this Code, including without limitation Chapter 4.08.

Section 5.17.180. – Security.

A. Security measures at retail marijuana establishments shall include at a minimum the following:

1. Security surveillance cameras installed to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises;
2. Robbery and burglary alarm systems which are professionally monitored and maintained in good working condition;
3. A locking safe room within the licensed premises that is suitable for storage of all marijuana and cash stored overnight on the licensed premises;
4. Exterior lighting that illuminates the exterior walls of the licensed premises and complies with applicable provisions of this Chapter and other applicable provisions of this Code; and
5. Deadbolt locks on all exterior doors.

B. All security recordings shall be preserved for at least 72 hours and made available to the Eagle Police Department upon request for inspection.

Section 5.17.190. – Required notices.

There shall be posted in a conspicuous location in each retail marijuana establishment, a legible sign containing the following warnings:

1. That the use of marijuana or marijuana products may impair a person's ability to drive a motor vehicle or operate machinery, and that it is illegal under State law to drive a motor vehicle or to operate machinery when under the influence of or impaired by marijuana;
2. That loitering in or around a retail marijuana establishment is prohibited by law;
3. That possession and distribution of marijuana is a violation of federal law; and

4. That no one under the age of 21 years is permitted on the premises.

Section 5.17.200. – On-site consumption of marijuana.

The use, consumption, ingestion or inhalation of retail marijuana or retail marijuana products, including smoking, on or within the premises of a retail marijuana establishment is prohibited.

Section 5.17.210. – Prohibited acts.

It is unlawful for any licensee to:

1. Employ any person at a retail marijuana establishment who is not at least 21 years of age or who has a criminal history as described in Section 5.17.120;

2. Purchase or otherwise obtain retail marijuana from any source that is not properly authorized under State and local law to sell or dispense retail marijuana;

3. Permit the sale or consumption of alcohol beverages on the licensed premises; or

4. Dispense marijuana to a person that is or appears to be under the influence of alcohol or under the influence of any controlled substance, including marijuana.

Section 5.17.220. – Visibility of activities; paraphernalia; control of emissions.

A. All activities of retail marijuana establishments, including, without limitation, processing, displaying, selling and storage, shall be conducted indoors and on-site.

B. Devices, contrivances, instruments and paraphernalia for inhaling or otherwise consuming marijuana, including without limitation, rolling papers and related tools, water pipes and vaporizers may lawfully be sold at a retail marijuana store. No retail marijuana or paraphernalia shall be displayed or kept in a retail marijuana store to be visible from outside the licensed premises.

C. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting the premises must be provided at all times. If any odors, debris, dust, fluids or other substances exit the premises, the owner and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items

and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, State and local laws and regulations.

Section 5.17.230. – Prevention of emissions and disposal of materials.

A. 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. If 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.

B. Businesses shall properly dispose of all materials and other substances in a safe and sanitary manner in accordance with State regulations and county landfill regulations.

C. 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.

D. 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.

E. All State regulations concerning ventilation systems shall be followed.

Section 5.17.240. – Sales and business license required.

At all times that a business is validly operating under this Chapter, the licensee shall also possess a valid Town business license.

Section 5.17.250. – Sales tax.

Each licensee shall collect and remit Town sales tax on all retail marijuana, retail marijuana products, paraphernalia and other tangible personal property sold by the licensee and shall further collect and remit any specific tax imposed on retail marijuana, retail marijuana products and paraphernalia.

Section 5.17.260. – Required books and records.

A. Every licensee shall maintain an accurate and complete record of all retail marijuana and retail marijuana products purchased, sold or dispensed by the

retail marijuana establishment in any usable form. Such record shall include the following:

1. The total quantity of, and amount paid for, the retail marijuana or the retail marijuana product(s); and

2. The date, time and location of each transaction.

B. All transactions shall be kept in a numerical register in the order in which they occur.

C. All records required to be kept under this Chapter shall be kept in the English language in a legible manner and must be preserved and made available for inspection for a period of 3 years after the date of the transaction. Information inspected by the Eagle Police Department or other Town departments pursuant to this Chapter shall be used for regulatory and law enforcement purposes only and shall not be a matter of public record.

Section 5.17.270. – Inspection.

During all business hours and other times of apparent activity, each licensed premises shall be subject to inspection by the Eagle Police Department and all other Town departments designated by the Local Licensing Authority for the purpose of investigating and determining compliance with this Chapter and any other applicable State and local laws or regulations. Said inspection may include without limitation the inspection of books, records and inventory. If any part of the licensed premises consists of a locked area, such area shall be made available for inspection, without delay, upon request.

Section 5.17.280. – Nonrenewal, suspension or revocation of license.

A. The Local Licensing Authority may, after notice and hearing, suspend, revoke or refuse to renew a license for good cause, including suspension or revocation of the licensee's State license. The Local Licensing Authority is authorized to adopt rules and procedures governing the conduct of such hearings.

B. The Local Licensing Authority may, in its discretion, revoke or elect not to renew any license if it determines that the licensed premises has been inactive, without good cause, for at least one year.

Section 5.17.290. – Violation and penalty.

In addition to denial, suspension, revocation or nonrenewal of a license under this Chapter, any person, including without limitation any licensee, manager or employee of a retail marijuana establishment, or any customer of such business,

who violates any provision of this Chapter shall be subject to the following penalties:

1. It shall be a misdemeanor offense for any person to violate any provision of this Chapter, and upon conviction, the penalties set forth in Section 1.12.010 shall apply.

2. The operation of a retail marijuana establishment without a valid license issued pursuant to this Chapter may be enjoined by the Town in an action brought in a court of competent jurisdiction, including the Eagle Municipal Court.

3. The operation of a retail marijuana establishment without a valid license issued pursuant to this Chapter is also specifically determined to be a public nuisance under Section 9.24.030.

Section 5.17.300. – No Town liability; indemnification.

A. By accepting a license issued pursuant to this Chapter, the licensee waives and releases the Town, its officers, elected officials, employees, attorneys and agents from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of retail marijuana establishment owners, operators, employees, clients or customers for a violation of State or federal laws, rules or regulations.

B. By accepting a license issued pursuant to this Chapter, all licensees, jointly and severally, if more than one (1), agree to indemnify, defend and hold harmless the Town, its officers, elected officials, employees, attorneys, agents, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of the retail marijuana establishment that is the subject of the license.

C. In adopting this Chapter, the Town Council is relying on and does not waive or intend to waive by any provision of this Chapter, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as from time to time amended, or any other limitation, right, immunity, or protection otherwise available to the Town, its officers or its employees.

Section 5.17.310. – Other laws remain applicable.

A. To the extent the State has adopted or adopts in the future any additional or stricter law or regulation governing the sale or distribution of retail marijuana or retail marijuana products, the additional or stricter regulation shall control the establishment or operation of any retail marijuana establishment in the Town. Compliance with any applicable State law or regulation shall be deemed an additional requirement for issuance or denial of any license under this Chapter, and noncompliance with any applicable State law or regulation shall be grounds for revocation or suspension of any license issued hereunder.

B. Any licensee may be required to demonstrate, upon demand by the Local Licensing Authority or by law enforcement officers that the source and quantity of any marijuana found upon the licensed premises are in full compliance with any applicable State law or regulation.

C. If the State prohibits the sale or other distribution of marijuana through retail marijuana establishments, any license issued hereunder shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.

D. The issuance of any license pursuant to this Chapter shall not be deemed to create an exception, defense or immunity to any person regarding any potential criminal liability the person may have for the cultivation, possession, sale, distribution or use of marijuana.

Section 5.17.320. – Rules and regulations.

The Town Manager is authorized to adopt, amend, alter and repeal administrative rules and regulations, and file the same with the Town Clerk, as may be necessary for the proper administration of this Chapter.

Section 5.17.330. – Judicial review.

In accordance with Article 18, § 16 of the Colorado Constitution, decisions by the Local Licensing Authority are subject to judicial review pursuant to C.R.S. § 24-4-106.

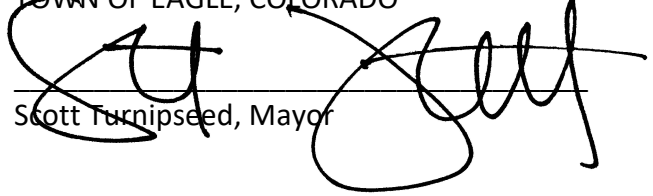
Section 4. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Town Council hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one, or part, or parts be declared unconstitutional or invalid.

Section 5. Safety. This Ordinance is deemed necessary for the protection of the public health, safety and welfare.

Section 6. Effective Date. Pursuant to Section 6.03 of the Eagle Home Rule Charter, this Ordinance shall take effect 10 days after publication following adoption.

INTRODUCED, READ, PASSED, ADOPTED AND ORDERED PUBLISHED ON AUGUST 10, 2021.

TOWN OF EAGLE, COLORADO



Scott Furnipseed, Mayor

ATTEST:



Jenny Rakow, Town Clerk