



*Town of Carbondale
511 Colorado Avenue
Carbondale, CO 81623*

**AGENDA
PLANNING & ZONING COMMISSION
THURSDAY, JULY 26, 2018
7:00 P.M. TOWN HALL**

1. CALL TO ORDER
2. ROLL CALL
3. 7:00 p.m. – 7:05 p.m.
Minutes of the July 12, 2018 meeting.....Attachment A
4. 7:05 p.m. – 7:10 p.m.
Public Comment – Persons present not on the agenda
5. 7:10 p.m. – 7:15 p.m.
Sopris Labs LLC SUP Attachment B
6. 7:15 p.m. – 7:35 p.m.
PUBLIC HEARING – Childcare Zone Text Amendment.....Attachment C
7. 7:35 p.m. – 8:00 p.m.
P&Z Interviews – Applications.....Attachment D
8. 8:00 p.m. – 8:05 p.m.
Staff Update
Quarterly Administrative Report.....Attachment E
9. 8:05 p.m. – 8:10 p.m.
Commissioner Comments
10. 8:10 p.m. – ADJOURN

*** Please note all times are approx.**

Upcoming P & Z Meetings:

August 16, 2018 - TBD

August 30, 2018 - TBD

MINUTES
CARBONDALE PLANNING AND ZONING COMMISSION
Thursday July 12, 2018

Commissioners Present:

Michael Durant, Chair
Jay Engstrom, 1st Alternate
Yuani Ruiz, Chair Pro Tem
Nick Miscione, 2nd Alternate
Marina Skiles
Ken Harrington

Staff Present:

Janet Buck, Planning Director
John Leybourne, Planner
Mary Sikes, Planning Assistant

Commissioners Absent:

Jennifer Gee DiCuollo
Jeff Davlyn

Other Persons Present

None

The meeting was called to order at 7:00 p.m. by Michael Durant.

June 14, 2018 Minutes:

Ken made a motion to approve the June 14, 2018 minutes. Yuani seconded the motion and they were approved unanimously with Michael, Jay, and Nick abstaining.

Public Comment – Persons Present Not on the Agenda

None

Resolution 4 of 2018 – Subdivision Exemption – 165 N. Eighth Street

Motion

Yuani made a motion to approve Resolution No. 4, Series of 2018, approving a Subdivision Exemption for 165 N. Eighth Street. Marina seconded the motion and it was approved unanimously.

UDC Discussion

Janet said that over the last year, we have worked through a number of amendments to the UDC. She stated that this memo pulls all of the amendments into one place so we can begin preparation for public hearings.

Janet explained that one item which is not ready for public hearings is the modeling for the Residential Zone Districts. She stated that the Town is entering into a contract with Clarion to start doing that modeling. She continued by saying rather than waiting for this

process to finish, the Commission could consider moving ahead with the amendments which are nearer to resolution.

Janet said that this is the first time all of the amendments have been in one document. She stated that since this discussion has taken place over the last year and has been dealt with in multiple memos, she thought that it would be important for Planning Commissioners and Staff to have a refresher before going into the next steps.

Janet noted that one of the items discussed below – Child Care Amendments – is scheduled for a public hearing on July 26, 2018. She said that we moved this ahead of the other amendments at the direction of the Board of Trustees.

Janet said that the second phase would include:

- Table of allowed uses
- OTR zone district building standards
- Definitions
- Solar access section
- Standards and guidelines
- Lighting
- Administration
- Street trees
- Mobile home parks

Points of Commission Discussion

- Prepare specific language for changes prior to the public hearings.
- Redline UDC for P&Z review.
- Modeling will be presented to Commission after selection of properties to be modeled.
- R/HD height and setbacks.
- Feasibility of affordable housing.
- Clarification of childcare amendments i.e.: drop-off not in ROW, 500 ft. from marijuana businesses, fencing language, only in Industrial Zone District.
- Disclaimers for childcare facility.
- Indoor window treatments are non-issue and should not be required.
- Mark Chain will give suggestions for HCC Zone District amendments to Janet.
- Street trees and drip lines.

Staff Update

Janet stated that the Major Site Plan review for Lot 1 for Crystal River Marketplace will be coming in early August.

Janet stated that Thompson Park has been approved and that the proposed construction timeline is to begin this year.

Janet said that the Carbondale Marketplace utilities are scheduled to be completed this year.

Janet noted that the Kiernan appeal is in District Court.

Janet said that at the RVR HOA met with the golf course owner to discuss the future of the golf course. She said that the owner of the driving range had met with Staff regarding a rezoning. She explained that the PUD would have to be amended and that the people affected would need to sign off of this proposal.

Commissioner Comments

Ken stated that the RVR HOA meeting covered the following points;

- Buy the golf course from the current owner.
- Subsidize from an assessment.
- Support rezoning.
- Committee formed.
- Owners were given ultimatums.

Motion

A motion was made by Ken to adjourn. Marina seconded the motion and the meeting was adjourned at 8:22 p.m.

**SPECIAL USE PERMIT
TOWN OF CARBONDALE, COLORADO**

**A SPECIAL USE PERMIT AUTHORIZING A RETAIL AND MEDICAL
MARIJUANA INFUSED PRODUCT MANUFACTURING FACILITY TO BE
OPERATED**

**ON SECTION: SECTION: 33 TOWNSHIP: 7 RANGE: 88 SUBDIVISION:
VILLAGE BUSINESS CENTER LOT: 45 THRU: - LOT: 51, CARBONDALE
COLORADO.
(695 Buggy Circle)**

A. Recitals.

1. Chapman Decote, Sopris Labs, LLC. (the “Applicant”) has made application for a Special Use Permit for a Retail and Medical Marijuana Infused Product Manufacturing Facility, as defined in Section 4.3.4.R of the Unified Development Code, for property located at Section: 33 Township: 7 Range: 88 Subdivision: VILLAGE BUSINESS CENTER Lot: 45 THRU:- Lot: 51 Carbondale, Garfield County, Colorado, with a street address of 695 Buggy Circle, (“subject property”).

2. The subject property is presently zoned as part of the Commercial Industrial (CI) zone district pursuant to the Roaring Fork Village PUD.

3. A Retail and Medical Marijuana Infused Product Manufacturing Facility may be allowed as a special use within the CI zone district pursuant to Table 4.2-1 of the Unified Development Code.

4. On February 8, 2018, after all required public notices, the Planning and Zoning Commission held a public hearing concerning this application during which it heard and considered comments from Town staff, legal counsel, the applicant and members of the public and approved the application.

5. Having considered the application and closed the public hearing, the Planning and Zoning Commission finds as follows with respect to this special use permit application:

- (a) The application was complete and Applicant has complied with all applicable application procedures.
- (b) The Applicant’s request complies with the Special Review Use Approval Criteria in Section 2.5.2.3.b and Section 4.3.4 - N of the Unified Development Code and should be approved upon the terms and conditions set forth herein.

- (c) The proposed use meets the purposes of the Commercial/Industrial zone district.
- (d) The Retail and Medical Marijuana Infused Product Manufacturing Facility shall be required to comply with all applicable fire, building, occupancy and other municipal code provisions adopted by the Town of Carbondale for the protection of public health, safety and welfare.
- (e) The proposed use does not have an adverse impact on the traffic and parking in the neighborhood.
- (f) The Retail and Medical Marijuana Infused Product Manufacturing Facility does not have an adverse effect upon the character of surrounding uses.
- (g) With the conditions of approval, the impacts of the proposed use on adjacent properties and the surrounding neighborhood have been minimized in a satisfactory manner.
- (h) The impacts of the Retail and Medical Marijuana Infused Product Manufacturing Facility, including but not limited to its operation, parking, traffic, noise, access to air and light, impacts on privacy of adjacent uses, and others, will not create a nuisance and such impacts would be borne by the owners and residents of the property on which the proposed use is located rather than by adjacent properties or the neighborhood.
- (i) The project is in scale with the existing neighborhood.

B. Approval of a Special Use Permit for a Retail and Medical Marijuana Infused Product Manufacturing Facility.

The Planning Commission of the Town of Carbondale, Colorado hereby approves a special use permit, authorizing the operation of a Retail and Medical Marijuana Infused Product Manufacturing Facility upon the subject property subject to the conditions set forth herein and all applicable provisions of the Carbondale Municipal Code and Unified Development Code pertinent to the operation of a Retail and Medical Marijuana Infused Product Manufacturing Facility.

C. Conditions of Approval.

1. The Special Use Permit shall be limited to a Retail and Medical Marijuana Infused Product Manufacturing operation.

2. All parking shall be limited to the employees of the operation and shall not impact the other units in the building.
3. That the operation shall significantly control or mitigate any odor, waste water and hazardous material impacts to the Town and surrounding properties.
4. The Applicant shall comply at all times with State Regulations governing the operation of a Retail Marijuana Infused Product Manufacturing operation.
5. The Applicant shall comply at all times with any Town regulations relating to the operation and licensing of the use.
6. The Applicant shall comply with all applicable fire and building code provisions for the protection of the health and safety of adjacent properties, units and the general public.
7. The Applicant shall apply for any applicable building permits and inspections as deemed necessary by the Building Official before any operations are to commence.
8. That the Owner is to provide Material Data Safety Sheets (MSDS) to the Town for all chemicals on site to be forwarded to the Fire Marshall and the Town Utility Director for review.
9. All representations of the Applicant made before the Town during public hearings shall be considered a condition of approval.

D. Transfer, Duration and Revocation of the Permit.

This Special Use Permit shall be subject to all provisions if of the Unified Development Code Section 2.5.2.3.b related to transferability, duration, and revocation.

E. Fees.

1. Prior to commencement of operation of the facility, the Applicant shall reimburse the Town for all applicable development review fees and reimbursable expenses, as set forth in the Municipal Code.

F. Recordation.

This Special Use Permit shall be recorded in the Garfield County real property records at the Applicant's expense. Thereafter, the terms and conditions of this permit shall run with title to the subject property until operation of a Retail and Medical

Marijuana Infused Product Manufacturing Facility is permanently ceased thereon in accordance with Section 2.5.2.C of the UDC.

Duly adopted by vote of the Planning and Zoning Commission of the Town of Carbondale at its regular meeting on July 26, 2018.

THE TOWN OF CARBONDALE

By: _____
Michael Durant, Chair



**TOWN OF CARBONDALE
511 COLORADO AVENUE
CARBONDALE, CO 81623**

Planning Commission Agenda Memorandum

Meeting Date: July 26, 2018

TITLE: Childcare Zone Text Amendment

SUBMITTING DEPARTMENT: Planning Department

ATTACHMENTS: Exhibit A - UDC Redlines
- Land Use Table
- Use-Specific Standards
- Number of Off-Street Parking Spaces Required
Sections 6-4 and 6-5 of the Municipal Code – Marijuana Licensing

BACKGROUND

This is a public hearing for the purpose of considering an amendment to the Unified Development Code (Chapter 17 of the Carbondale Municipal Code), specifically the amendment is related to Child Care Facilities.

The Commission is required to hold a public hearing and recommend approval of the amendments or recommend denial. The Commission may also continue the public hearing.

On March 21, 2018, a work session was held between the Board of Trustees and the Planning Commission. One of the topics of the meeting was amending the Unified Development Code (UDC) as it relates to child care. Specifically, the following was discussed:

1. Allowing childcare uses in the Industrial (I) and Commercial/Retail/Wholesale (CRW) zone district as Special Review Uses.
2. Required off-street parking for child care uses.
3. Use-specific standards in UDC 4.3.3.B. to address child care uses in the Industrial Zone District and the CRW zone district.

Section 2.4.2.B.2 of the UDC allows the Board to initiate an amendment to the UDC. On April 10, 2018, the Board made a motion to initiate a zone text amendment to the

UDC as it relates to child care, including but not limited to, the table of allowed uses, use specific standards, off-street parking, etc.

DISCUSSION

UDC Amendments

The Commission discussed the amendments at its June 14, 2018 and July 12, 2018 meetings. At those meetings, the Commission asked Staff to incorporate the following items in the zone text amendment:

- Ø One parking space per employee and one per classroom.
- Ø Require that drop-offs be located on the property (not right-of-way).
- Ø Eliminate distance requirement between day care facilities and marijuana facilities in the industrial zone district.
- Ø Stricter child care use-specific standards for facilities in the Industrial Zone District only.
- Ø Include language that if a daycare is located in the Industrial Zone District, that there may be impacts related to the industrial uses which are allowed in that zone district.
- Ø Add a use specific standard to the UDC Section 4.3.3.B. that “buffering of play areas through the use of fencing and/or a landscape screen may be required.”
- Ø Include language that if a daycare is located in an Industrial Zone district, the operator shall be required to notify clients in writing of the nature of the Industrial Zone District.

Attached please find redlines to the sections of the UDC which incorporate the comments from the Board and the Commission.

Municipal Code Amendments

The distancing requirements between marijuana facilities and child care facilities are in Article 4 and Article 5 in Chapter 6 of the Municipal Code. These sections regulate marijuana licensing. The following code sections would need to be amended to eliminate distancing requirements in the Industrial zone district:

Section 6-4-90 – Medical Marijuana Store

Section 6-4-100 – Medical Marijuana-Infused Products Manufacturing Facility

Section 6-4-110 – Optional Premises Cultivation Facility

Section 6-5-120 – Retail Marijuana Store

Section 6-5-130 – Retail Marijuana Products Manufacturing Facility
Section 6-5-140 – Retail Marijuana Cultivation Facility

All of these code sections share common language as it relates to distancing requirements. The common language reads as follows:

No _____ license shall be issued for the following locations:
Within 500 feet of any school or day care home existing at the time of the application, with the distance computed using a route of direct pedestrian access from the nearest property line of the land used for school or day care purposes to the nearest portion of the building in which the _____ is proposed to be located.

I have attached the above-referenced code sections and have highlighted the distancing language. (They are fairly lengthy so the Commission may want to only review the highlighted sections.) The Commission may want to consider including in its recommendation that these code sections be amended to eliminate the distance requirements between day care homes and all Marijuana Facilities when the day care home is located in the Industrial Zone District.

Sections 4.3.4.S.e. and f. of the UDC mention distancing requirements; however, it defers to the licensing sections of the Municipal Code which are listed above.

(I noticed that Sections 4.3.4.S.e. and f. of the UDC have the wrong citations. They call out Chapter 5.26 instead of the code sections listed above which are Sections 6-4 and 6-5. This should be corrected during the overall UDC amendment project.)

FISCAL IMPACTS

There may some impacts on businesses operating in the Industrial Zone District if child care facilities are allowed. In the CRW zone district, there may be a loss of available square footage of retail space.

AMENDMENTS TO THE UNIFIED DEVELOPMENT CODE

Section 2.4.1.C.3.b. states amendments to the UDC may be approved if the Town finds that all of the following approval criteria have been met:

1. The proposed amendment will promote the public health, safety, and general welfare;
2. The proposed amendment is consistent with the Comprehensive Plan and the stated purposes of this Unified Development Code; and
3. The proposed amendment is necessary or desirable because of changing conditions, new planning concepts, or other social or economic conditions.

RECOMMENDATION

Staff would recommend the following motion: **Move to approve the zone text amendment as shown in Exhibit A with the following findings:**

Findings

1. The proposed amendment will promote the public health, safety, and general welfare;
2. The proposed amendment is consistent with the Comprehensive Plan and the stated purposes of this Unified Development Code; and
3. The proposed amendment is necessary or desirable because of changing conditions, new planning concepts, or other social or economic conditions.

Prepared By: Janet Buck, Planning Director

P = permitted use C =

S = special use
Blank cell = prohibited use

[illegible]

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4.3.1. PUBLIC, INSTITUTIONAL, AND CIVIC USES

A. Club or Lodge

1. The club or lodge shall be located on a lot that fronts an arterial or collector street.
2. If the club or lodge is proposed within a facility previously used for a commercial use, it shall comply with standards for minimum number of parking spaces required for a club or lodge.

B. Day Care, Seven Children or More

1. I District

- a. Buffering of play area through the use of fencing and/or landscape screen shall be required.
- b. The operator shall be required to notify clients in writing of the nature of the industrial zone district.
- c. The drop-off shall be located on-site.

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2. All Districts

The following additional information may be required, either on the special use permit application form or as specified during a pre-application meeting:

- ~~4.~~ a. All documents required to be transmitted to any other governmental entity;
- ~~2.~~ b. The site plan shall show the square footage and interior room design in addition to the building footprint; and
- ~~3.~~ c. Projections for the next five years, including the proposed number of children or- students, teachers, and other support personnel.

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**Table 5.8-1:
Number of Off-Street Parking Spaces Required: Schedule A**

| Use Category | Use | Number of Spaces Required |
|---|--|--|
| Public, Institutional, and Civic Uses | | |
| Community and Cultural Facilities | Civic building | 1 per 300 SF GFA |
| | Club or lodge | 1 per 300 SF GFA |
| | Community center | 4 per 1,000 SF GFA |
| | Convention hall | 1 per 6 persons maximum fire-rated capacity |
| | Country club | 1 per 200 SF + 1 per every 4 persons of maximum outdoor facility capacity |
| | Library | 1 per 400 SF GFA |
| | Museum | 1 per 400 SF GFA |
| | Places of worship, social clubs | 1 per every 6 seats in worship area |
| Transit Uses | Transit stop | See Schedule C |
| | Transit terminal or station | See Schedule C |
| Child Care Facilities | Day care – fewer than seven children | 1 space, plus 1 space for every vehicle used in operation of use (plus additional spaces for single-family dwelling, if allowed in dwelling) |
| | Day care – seven children or more | 1 per every 5 persons up to 50, then 1 per every 10 persons 1 per employee + 1 per classroom |
| Health Care Facilities | Hospital | 1 per 2 inpatient beds + 1 per employee |
| | Medical or dental office | 5 per 1,000 sq. ft. GFA |
| | Medical or dental clinic | Medical, dental or optical: 7 per 1,000 SF GFA |
| Parks and Open Space | Park, playground, open space | See Schedule B |
| Educational Facilities | Schools, academies, colleges trade or business schools | Elementary/middle: 1.5 per classroom |
| | | High School: 5 per classroom College or university: 1 per every 200 sf |
| | | Vocational or trade school: 1 per every 150 sf |
| Commercial/Retail and Other Uses | | |
| Agriculture and Animal-Related Services | Animal husbandry | See Schedule C |
| | Commercial farming, plant husbandry, commercial greenhouse | See Schedule C |
| | Community garden See Agricultural and Animal-Related Services under Commercial Uses | 1 per 5,000 SF of lot area |
| | Kennel | 1 per 600 SF GFA |
| | Sale of produce and plants raised on premises | 2 spaces for every 3 employees on the maximum shift, 1 space for every vehicle customarily used in the operation of the use or stored on the premises, and 5 spaces for every 1000 sq. ft. of indoor and outdoor sales areas |
| | Veterinary clinic | 1 per 600 SF GFA |
| | Adult Entertainment Establishments | Adult entertainment establishment |

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| Arts | Art gallery | 1 per 300 sq. ft. GFA |
|-------------|-------------|-----------------------|

ARTICLE 4 - Medical Marijuana Licensing Procedures

Sec. 6-4-10. - Short title.

This Article shall be known and may be cited as the "Medical Marijuana Licensing Ordinance."

(Ord. No. 3, 2011 §2; prior code 5.25.010; Ord. No. 9, 2014, 3-18-2014; Ord. No. 8, 2015 §1, 8-11-2015)

Sec. 6-4-20. - Purpose and legislative intent.

The Colorado Medical Marijuana Code, Section 12-43.3-101, et seq., C.R.S., affords to municipalities the local option to determine whether to license certain medical marijuana businesses within their respective jurisdictions. The purpose of this Article is to affirmatively authorize such licensing in the Town and to establish specific standards and procedures for local licensing of medical marijuana centers, medical marijuana infused-products manufacturers and optional premises cultivation. Furthermore, this Article is intended to exercise the authority granted by the Colorado Medical Marijuana Code for the Town to adopt licensing requirements that are, in some cases, supplemental to or stricter than the requirements set forth in state law.

(Ord. No. 3, 2011 §2; prior code 5.25.020; Ord. No. 9, 2014, 3-18-2014; Ord. No. 8, 2015 §1, 8-11-2015)

Sec. 6-4-30. - Definitions.

The definitions set forth in the Colorado Medical Marijuana Code shall apply equally to this Article. In addition, the following terms shall have the meanings respectively assigned to them:

Alcohol or drug treatment facility means either of the Jaywalker Lodge facilities, located at 811 Main Street and 725 Main Street, as well as any other transitional residential treatment facility operating after April 28, 2014, licensed by the Colorado Department of Human Services, and which the Board of Trustees designates as an alcohol or drug treatment facility for purposes of approving or denying an application for licensing of a retail marijuana establishment.

Day care home means a facility licensed by the County or the State which is maintained for a whole day or part of a day for the care of more than two children under the age of 16 years not related to the owner, operator or manager thereof, which facility is operated with or without compensation for such care. A *small day care home* is a day care home for less than seven children. A *large day care home* is a day care home for seven or more children.

Employee means a person hired to work at a medical marijuana establishment to perform duties and services for an employer at the facility for pay, which duties and services constitute, establish and determine the relationship between the parties as that of employer and employee, except that the term shall not include an independent contractor.

Medical marijuana establishment means a medical marijuana center, optional medical marijuana cultivation premises, medical marijuana-infused products manufacturer, or medical marijuana testing facility.

Primary home means a home or place in which a person's habitation is fixed and to which the person, whenever absent, has the present intention of returning after a departure or absence therefrom, regardless of the duration of such absence. A primary home is a permanent building or part of a building and may include, by way of example, a house, condominium, apartment, room in a house or manufactured housing. No rental property, vacant lot, vacant house, vacant cabin or premises used solely for business purposes shall be considered a primary home.

School means any public or private school meeting all requirements of the compulsory education laws of the State and providing instruction to students in Kindergarten through Grade 12 and which are licensed through the State, colleges, college campuses and licensed preschool facilities. This does not include home-schooling facilities that are located within residential

structures or other structures on a part-time basis.

(Ord. No. 3, 2011 §2; prior code 5.25.040; Ord. No. 9, 2014, 3-18-2014; Ord. No. 8, 2015 §1, 8-11-2015; Ord. No. 12, 2016, §1, 7-13-2016)

Sec. 6-4-40. - Effective date; applicability.

- (a) This Article shall be effective on April 28, 2014, and shall govern all applications submitted to the state licensing authority for licensing of any medical marijuana establishment in the Town under the Colorado Medical Marijuana Code on and after that date.
- (b) Except as otherwise specifically provided herein, this Article shall not affect or apply to any business licensed under the Colorado Retail Marijuana Code and this Article.

(Ord. No. 9, 2014, 3-18-2014; Ord. No. 8, 2015 §1, 8-11-2015)

Sec. 6-4-41. - Transition provisions.

The following provisions shall govern all applications for licensing of medical marijuana establishments submitted to the Town: No more than three optional premises cultivation facilities may be licensed within the Town.

(Ord. No. 12, 2016, §1, 7-13-2016)

Sec. 6-4-50. - Relationship to state and other laws.

Except as otherwise specifically provided herein, this Article incorporates and adopts the requirements and procedures set forth in the Colorado Medical Marijuana Code and the provisions of the Colorado Rules and Regulations promulgated thereunder, as amended, relating to the definition of terms, licensing, sales, hours of sale, records, inspection, unlawful acts and all other matters pertaining to medical marijuana, as if set out in full herein. In the event of any conflict between the provisions of this Article and the provisions of the Colorado Medical Marijuana Code or any other applicable state or local law, the more restrictive provision shall control.

(Ord. No. 9, 2014, 3-18-2014; Ord. No. 7, 2015 §1, 5-12-2015; Ord. No. 8, 2015 §1, 8-11-2015)

Sec. 6-4-60. - Unlawful acts.

It is unlawful for any person to:

- (1) Operate any medical marijuana establishment in the Town without a license duly issued by the state licensing authority under the Colorado Medical Marijuana Code and in compliance with any and all applicable state laws;
- (2) Operate any medical marijuana establishment in the Town without a license duly issued by the Town Clerk on behalf of the Board of Trustees under this Article and in compliance with any and all applicable Town laws; or
- (3) Engage in any form of business or commerce involving the cultivation, processing, manufacturing, storage, sale, distribution or consumption of medical marijuana other than those forms that are expressly contemplated by Section 14 of Article XVIII of the Colorado Constitution or the Colorado Medical Marijuana Code.

(Ord. No. 9, 2014, 3-18-2014; Ord. No. 8, 2015 §1, 8-11-2015)

Sec. 6-4-70. - Classes of licensing authorized.

- (a) For the purpose of regulating the cultivation, manufacture, distribution, offering for sale and sale of medical marijuana of Trustees, in its sole discretion, upon application in the prescribed form made to the Board of Trustees, may issue or the applicant a local license from any of the following classes, and the Town hereby authorizes issuance of the licenses following classes by the state licensing authority in locations in the Town, subject to the provisions provided in this Article
- (1) Medical marijuana center;
 - (2) Medical marijuana-infused products manufacturing facility;
 - (3) Optional premises cultivation facility; and
 - (4) Medical marijuana testing facility.
- (b) Each type of medical marijuana establishment shall require a separately issued license. A license issued pursuant to this Article does not eliminate the need to obtain any Town-required land use approval, sales tax license or building permit.

(Ord. No. 9, 2014, 3-18-2014; Ord. No. 8, 2015 §1, 8-11-2015; Ord. No. 12, 2016, §1, 7-13-2016)

Sec. 6-4-80. - Licensing requirements and procedure; provisions applicable to all licenses.

- (a) *Generally.* All local license applications shall be filed with the Town Clerk. The Board of Trustees shall consider and act upon all local license applications filed with the Town Clerk in accordance with the standards and procedures set forth in this Article. The Board of Trustees shall deny any application for a license that is not in full compliance with the Colorado Medical Marijuana Code, this Article and any other applicable state or Town law or regulation. The Board of Trustees shall also deny any application that contains false or incomplete information.
- (b) *Application forms and supplemental materials.* All applications for local licensing of retail marijuana establishments shall be made upon forms approved by the Board of Trustees and provided by the Town Clerk. Applications shall be accompanied by the following documentation and information:
- (1) Area map. An area map of the Town that is drawn to scale and demonstrates that the proposed licensed premises complies with Town zoning and location restrictions by depicting the proximity of the proposed licensed premises to any school (as defined in this Article), day care home (as defined in this Article), alcohol or drug treatment facility (as defined in this Article), retail marijuana store or medical marijuana center.
 - (2) List of employees. The names and addresses of any employees or proposed employees of the medical marijuana establishment.
 - (3) Materials to comply with state law. Any such materials required to be provided to the State in order to receive a State-issued medical marijuana license pursuant to the Colorado Medical Marijuana Code and rules adopted pursuant thereto, including, by way of example: proof of possession of the licensed premises, disclosures related to ownership of the proposed business, fingerprints of the applicants and employees, building plans and security plans.
 - (4) Supplemental materials to comply with local law. Any other documentation as may be necessary to effectively enforce this Article and other Town laws.
 - (5) Proof of possession of the licensed premises. Proof of a lease or other written agreement authorizing the applicant to utilize the premises as a retail marijuana facility for a period of at least one year from the date of issuance of the license.
 - (6) Disclosures related to ownership of the proposed business. Provide a Certificate of Good Standing from the Colorado Secretary of State, for applicants that are corporations, partnerships, or limited liability companies.
- (c) *Notice of applications to departments and agencies.* Upon receipt of an application for any class of local license, the Town Clerk shall give notice of the application to the Board of Trustees, the Town Manager, the Planning Department, the Building Department, the Police Department and, as needed, other Town staff. Any applicant for a

license under this Article shall obtain any and all necessary permits, licenses and other regulatory approvals from the other affected Town departments and agencies prior to the issuance of a license under this Article.

- (d) *Notice of initial determination to applicant.* No later than 35 days from the date the application is received by the Town, the Town Clerk shall provide a notice of initial determination to the applicant as to whether the applicant's application is complete and whether the proposed licensed premises violates any zoning law or other restriction on location set forth in Town laws. If such application is incomplete or if such proposed licensed premises violates Town laws, the Town Clerk shall provide the applicant with 14 days to cure the application or violation before notifying the State that the application is disapproved by the Town.
- (e) *Scheduling public hearing.* Within 45 days from the date the application is deemed complete, the Town Clerk shall schedule a public hearing to consider the application for licensing of the medical marijuana establishment in accordance with the requirements of Subsection (f) below.
- (f) *Public hearing.* The following public hearing procedure applies when an application has been deemed complete and has been found to comply with all zoning laws and other retail marijuana location restrictions set forth in Town laws. This public hearing procedure applies to any application for licensing of any retail marijuana establishment and to any application for licensing renewal if the renewal application is referred to the Board of Trustees by the Town Clerk pursuant to Section 6-5-180 of this Article.

(1) Public notice of the application shall be given as follows:

- a. Posting of a sign by the applicant on the premises for which an application has been made, not less than 15 days prior to the public hearing, stating the date of the application, 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. The Town Clerk shall provide the sign to the applicant for posting. If the building in which the medical marijuana establishment is to be located is in existence at the time of the application, any sign posted shall be placed so as to be conspicuous and plainly visible to the general public. If the building is not constructed at the time of the application, the applicant shall post the premises upon which the building is to be constructed in such a manner that the notice shall be conspicuous and plainly visible to the general public.
- b. Written notice mailed 15 days prior to the public hearing, with prepaid first-class postage, to all property owners of record, as recorded at the office of the County Assessor, of property within 300 feet of the proposed licensed premises. The applicant is responsible for obtaining the list of owners, making the mailing and providing the list of owners to the Town Clerk ten days prior to the public hearing. Notice given by written mailing shall contain the same information as that required for signs.
- c. Publication of notice by the Town Clerk not less than 15 days prior to the public hearing, in a newspaper of general circulation. Notice given by publication shall contain the same information as that required for signs.

(2) At the public hearing held pursuant to this Section:

- a. The Board of Trustees must make a finding and determination as to the good moral character of the applicant, meaning that the applicant has a personal history demonstrating honesty, fairness and respect for the right of others and for the law.
- b. The Board of Trustees may consider the number, type and availability of the same type of medical marijuana establishment in the Town; the proximity of the subject license to the same class of medical marijuana establishment; the proximity of the subject license to other medical marijuana and retail marijuana establishments; the degree of concentration of medical marijuana and retail marijuana establishments; the reasonable requirements of the neighborhood; and potential impacts to the neighborhood by the granting of the subject license.
- c. The Board of Trustees may deny the application to license any retail marijuana establishment in the

- same location where any medical marijuana establishment or retail marijuana establishment is or has been previously licensed if there is evidence that the previously licensed premises was operated in a manner that adversely affects the public health, welfare or safety of the residents of the Town.
- d. Any party in interest shall be allowed to present evidence relevant to the issuance of a license. The term party in interest means the applicant or an adult resident of the Town. The Board of Trustees, in its discretion, may limit the presentation of evidence so as to prevent repetitive and cumulative evidence or examination.
 - e. The Board of Trustees shall consider the facts and evidence adduced as a result of its investigation, as well as any other facts, and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed.
- (3) Not less than seven days after the date of hearing, the Town Clerk shall make known in writing to the applicant and other interested parties the Board of Trustees' findings based on its investigation.
 - (4) The Board of Trustees may approve a medical marijuana establishment license with specific conditions. The Board of Trustees may refuse to issue a medical marijuana establishment license for good cause, subject to judicial review. The term good cause means that the applicant has violated, does not meet or has failed to comply with any of the terms, conditions or provisions of the Colorado Medical Marijuana Code or any rule and regulations promulgated pursuant thereto, or this Article or rules or regulations promulgated pursuant to this Chapter; the applicant has failed to comply with any special terms or conditions that were placed upon the licensee by the Town; or the proposed licensed premises cannot be supported by the existing infrastructure of the Town.
 - (5) Any decision of the Board of Trustees approving or denying an application shall be in writing stating the reasons therefor, within 30 days after the date of the public hearing, and the Town Clerk shall send a copy of such decision by certified mail to the applicant at the address shown in the application and to the state licensing authority.
- (g) *Signs and advertising.* Restrictions on signs and advertising shall be governed by the standards and procedures set forth in the Colorado Medical Marijuana Code and any regulations adopted pursuant thereto. In addition, all medical marijuana establishments are limited to no more than two signs: one sign on the door of the establishment with a maximum size of two square feet, and one other sign to be located in or on the windows, roof or walls of the establishment, or on the premises, with a maximum size of 12 square feet, or the sizes prescribed by the Chapter 17.05, Section 5.9 of the Municipal Code (the Town Sign Code), whichever is more restrictive. Both of these types of signs shall exist solely for the purpose of indicating the name, address, type and location of the retail marijuana establishment, and no sign shall contain additional logos, symbols or other visual information depicting or promoting marijuana plants, marijuana products, marijuana use, or the marijuana industry in general. All such signage shall also otherwise comply with this Article and any other applicable Town laws and regulations regarding signs and advertising, including the Town Sign Code. With the exception of these two types of signs allowed to be utilized by licensed medical marijuana establishments, it shall be unlawful for any person licensed under this Article or for any other person or entity to otherwise advertise any medical marijuana establishment or product within the Town of Carbondale utilizing any of the following media: any billboard or other outdoor general advertising; any sign mounted on or otherwise affixed to a vehicle; any handheld or other portable sign; or any handbill, leaflet, or flier directly handed to any person in a public place, left upon a motor vehicle, or posted upon any public or private property. Any violation of these medical marijuana signage and advertising restrictions by any other person may be subject to the penalties set forth in Section 1-4-20 of the Municipal Code.

(Ord. No. 9, 2014, 3-18-2014; Ord. No. 5, 2014 §512, 13, 10-14-2014; Ord. No. 7, 2015 §4, 5-12-2015; Ord. No. 8, 2015 §1, 8-11-2015; Ord. No. 11, 2016, §1, 6-8-2016; Ord. No. 12, 2016, §1, 7-13-2016; Ord. No. 18, 2017, §9, 11-14-2017)

In addition to the requirements set forth in the Colorado Medical Marijuana Code, any rules or regulations adopted pursuant thereto and those requirements set forth in Section 6-4-80 above, the following requirements shall apply to the issuance of any local license for a medical marijuana center:

- (1) Compliance with zoning. A local license for a medical marijuana center may only be issued for those lots that comply with the zoning provisions of this Code and that, at the time of the application for the license, are within the zone districts that do not prohibit medical marijuana centers and otherwise, pursuant to the zoning provisions. This Paragraph and Paragraph (2) below shall not apply to any location where the Town previously issued a medical marijuana center license prior to July 1, 2010, and a licensed medical marijuana center has existed in continuous operation at the subject location without expanding the size or uses since the time of original licensing.
- (2) Prohibited locations. No medical marijuana store license shall be issued for the following locations:
 - a. Within 500 feet of any school or day care home existing at the time of the application, with the distance computed using a route of direct pedestrian access from the nearest property line of the land used for school or day care home purposes to the nearest portion of the building in which the medical marijuana center is proposed to be located.
 - b. Within 400 feet of any retail marijuana store or other medical marijuana center, located on Main Street between Snowmass Drive and 7th Street, and existing at the time of the application, computed using a route of direct pedestrian access from the nearest portion of the building used for a store or center to the nearest portion of the building in which the medical marijuana center is proposed. This restriction shall not be construed to prohibit the licensing of a retail marijuana store under common ownership with and at the same location as a licensed medical marijuana center, to the extent permitted by the Colorado Retail Marijuana Code and any rules and regulations adopted pursuant thereto.
 - c. Within 500 feet of any alcohol or drug treatment facility existing at the time of the application, computed using a route of direct pedestrian access from the nearest property line of the land used for alcohol or drug treatment facility purposes to the nearest portion of the building in which the medical marijuana center is located.
- (3) Local residency requirement. The applicant seeking licensure must provide the Town of Carbondale with the name of an agent of the proposed licensee who will serve as a point of contact for the Town. Such agent shall hold at least a ten percent ownership interest in the medical marijuana center and shall have a primary home (as the term is defined in this Section 6.4.90(3)) within the 81601, 81621, or 81623 Colorado zip codes (hereinafter "Agent"). The applicant shall provide Town staff with documentation to prove compliance with this local residency requirement. If, during the term of the license, the license holder desires to change the Agent, the license holder shall provide to Town staff a "Statement of Agent Change," and such replacement Agent shall appear at a regularly scheduled meeting of the Board of Trustees of the Town of Carbondale on the date as given and directed by Town staff. Failure to file the Statement of Agent Change, failure of the replacement Agent to appear before the Board of Trustees of the Town of Carbondale, or failure of the license holder to designate and transfer ownership to the replacement Agent within six months of any termination of the prior Agent constitutes a violation of the terms and conditions of the license.

(Ord. No. 9, 2014, 3-18-2014; Ord. No. 5, 2014 §5, 10-14-2014; Ord. No. 7, 2015 §8, 5-12-2015; Ord. No. 8, 2015 §1, 8-11-2015; Ord. No. 16, §4, 8-23-2016)

Sec. 6-4-100. - Medical marijuana-infused products manufacturing licensing requirements.

In addition to the requirements set forth in the Colorado Medical Marijuana Code, any rules or regulations adopted pursuant thereto, and those requirements set forth in Section 6-4-80 above, the following requirements shall apply to the issuance of any local license for a medical marijuana-infused products manufacturing facility:

- (1) Prohibited locations. No medical marijuana-infused products manufacturing facility license shall be issued for the following locations:
 - a. Within 500 feet of any school or day care home existing at the time of the application, with the distance computed using a route of direct pedestrian access from the nearest property line of the land used for school or day care home purposes to the nearest portion of the building in which the medical marijuana-infused products manufacturer is proposed to be located.
 - b. Within 500 feet of any alcohol or drug treatment facility existing at the time of the application, computed using a route of direct pedestrian access from the nearest property line of the land used for alcohol or drug treatment facility purposes to the nearest portion of the building in which the medical marijuana-infused products manufacturing facility is proposed to be located.
- (2) Compliance with zoning and performance measures. A local license for a medical marijuana-infused products manufacturing facility may only be issued for those lots that comply with the zoning provisions of this Code. The applicant must also secure a special use permit, pursuant to the zoning provisions, for the medical marijuana-infused products manufacturing facility. Any such special use permit shall only be granted upon a showing of evidence by the applicant that the medical marijuana-infused products manufacturing facility will sufficiently control or mitigate any odor, wastewater and hazardous material impacts to the Town.
- (3) Limited exemption. Paragraphs (1) and (2) above shall not apply to any location where the Town previously issued a medical marijuana-infused products manufacturing license prior to July 1, 2010, and a licensed marijuana-infused products manufacturing facility has existed in continuous operation at the subject location without expanding the size or uses since the time of original licensing.
- (4) Sanitation, product labeling, packaging and product safety. Requirements and standards for sanitation, product labeling, packaging and product safety for medical marijuana-infused products manufacturing shall be as provided by the Colorado Medical Marijuana Code and any other applicable state laws and regulations.
- (5) Local residency requirement. The applicant seeking licensure must provide the Town of Carbondale with the name of an agent of the proposed licensee who will serve as a point of contact for the Town. Such agent shall hold at least a ten percent ownership interest in the medical marijuana-infused product manufacturing facility and shall have a primary home (as the term is defined in this Section 6.4.100(5)) within the 81601, 81621, or 81623 Colorado zip codes (hereinafter "Agent"). The applicant shall provide Town staff with documentation to prove compliance with this local residency requirement. If, during the term of the license, the license holder desires to change the Agent, the license holder shall provide to Town staff a "Statement of Agent Change," and such replacement Agent shall appear at a regularly scheduled meeting of the Board of Trustees of the Town of Carbondale on the date as given and directed by Town staff. Failure to file the Statement of Agent Change, failure of the replacement Agent to appear before the Board of Trustees of the Town of Carbondale, or failure of the license holder to designate and transfer ownership to the replacement Agent within six months of any termination of the prior Agent constitutes a violation of the terms and conditions of the license.

(Ord. No. 9, 2014, 3-18-2014; Ord. No. 5, 2014 §6, 10-14-2014; Ord. No. 7, 2015 §9, 5-12-2015; Ord. No. 8, 2015 §1, 8-11-2015; Ord. No. 16, §5, 8-23-2016)

Sec. 6-4-110. - Optional premises cultivation facility licensing procedures.

In addition to the requirements set forth in the Colorado Medical Marijuana Code, any rules or regulations adopted pursuant thereto and those requirements set forth in Section 6-4-80 of this Article, the following requirements shall apply to the issuance of any local license for optional premises cultivation facility:

- (1) Prohibited locations. No optional premises cultivation facility license shall be issued for the following locations:
 - a. Within 500 feet of any school or day care home existing at the time of the application, with the distance computed using a route of direct pedestrian access from the nearest property line of the land used for school or day care home purposes to the nearest portion of the building in which the optional premises cultivation facility is proposed to be located.
 - b. Within 500 feet of any alcohol or drug treatment facility existing at the time of the application, computed using a route of direct pedestrian access from the nearest property line of the land used for alcohol or drug treatment facility purposes to the nearest portion of the building in which the optional premises cultivation facility is proposed to be located.
 - c. Within 400 feet of any existing retail marijuana cultivation facility or other optional premises cultivation facility at the time of the application, with the distance computed using a route of direct pedestrian access from the nearest property line of the land used for the neighboring retail marijuana cultivation facility or optional premises cultivation facility to the nearest portion of the building in which the subject optional premises cultivation facility is proposed to be located.
- (2) Compliance with zoning and performance measures. A local license for an optional premises cultivation facility may only be issued for those lots that comply with the zoning provisions of this Code. The applicant must also secure a special use permit for the optional premises cultivation facility, pursuant to the zoning provisions. Any such special use permit shall only be granted upon a showing of evidence by the applicant that the optional premises cultivation facility will sufficiently control or mitigate any odor, wastewater and hazardous material impacts to the Town.
- (3) Limited exemption. Paragraphs (1) and (2) above shall not apply to any location where the Town previously issued an optional premises cultivation license prior to July 1, 2010, and the optional premises cultivation facility has existed in continuous operation at the subject location without expanding the size or uses since the time of original licensing.
- (4) Local residency requirement. The applicant seeking licensure must provide the Town of Carbondale with the name of an agent of the proposed licensee who will serve as a point of contact for the Town. Such agent shall hold at least a ten percent ownership interest in the optional premises cultivation facility and shall have a primary home (as the term is defined in this Chapter 6.4.110(4)) within the 81601, 81621, or 81623 Colorado zip codes (hereinafter "Agent"). If, during the term of the license, the license holder desires to change the Agent, the license holder shall provide to Town staff a "Statement of Agent Change," and such replacement Agent shall appear at a regularly scheduled meeting of the Board of Trustees of the Town of Carbondale on the date as given and directed by Town staff. Failure to file the Statement of Agent Change, failure of the replacement Agent to appear before the Board of Trustees of the Town of Carbondale, or failure of the license holder to designate and transfer ownership to the replacement Agent within six months of any termination of the prior Agent constitutes a violation of the terms and conditions of the license.
- (5) Renewable energy requirements for marijuana cultivation. All retail marijuana cultivation facilities and medical marijuana optional premises cultivation facilities shall source 30 percent of the total energy used in the operation of such facilities or premises from renewable energy sources, whether on-site or off-site, including, but not limited to, wind power, hydro power, and solar power. In conjunction with licensing pursuant to Chapters 5.25 and 5.26 of the Municipal Code, applicants for initial licensing shall provide information to the

Town of Carbondale to demonstrate the ability to comply with this renewable energy requirement. Applicants for licensing renewal shall provide information to the Town of Carbondale to verify compliance with this renewable energy requirement.

(Ord. No. 9, 2014, 3-18-2014; Ord. No. 5, 2014 §7, 10-14-2014; Ord. No. 7, 2015 §§10, 14, 5-12-2015; Ord. No. 8, 2015 §1, 8-11-2015; Ord. No. 16, §6, 8-23-2016; Ord. No. 3, 2015, §1, 3-17-2015)

Sec. 6-4-111. - Medical marijuana testing facility licensing requirements.

In addition to the requirements set forth in the Colorado Medical Marijuana Code and any rules or regulations adopted pursuant thereto, the following requirements shall apply to the issuance of a medical marijuana testing facility license:

- (1) Compliance with zoning. A local license for a medical marijuana testing facility may only be issued for those lots on which, at the time of application for the license, testing laboratories constitute a permitted use pursuant to the Uniform Development Code.
- (2) No shared interest. No local medical marijuana testing facility license may be issued to any applicant that shares an interest in a medical marijuana establishment or retail marijuana establishment located within the Town.

(Ord. No. 12, 2016, §1, 7-13-2016)

Sec. 6-4-120. - Transfer of ownership.

Full transfer or partial transfer of ownership of any local license issued pursuant to this Article shall be governed by the standards and procedures set forth in the Colorado Medical Marijuana Code and any regulations adopted pursuant thereto, and the Board of Trustees shall administer transfers of local licenses in the same manner as the state licensing authority administers transfers of state licenses. The public hearing requirements set forth in Section 6-4-80(f) of this Article shall apply to all applications for full or partial transfer of ownership of any local license, except in the instance that a license holder has filed a Statement of Agent Change, as set forth in this Article. The submission or pendency of an application for full or partial transfer of ownership does not relieve the license holder from the obligation to properly apply to renew such license in accordance with Section 6-4-140(g).

(Ord. No. 9, 2014, 3-18-2014; Ord. No. 7, 2015 §12, 5-12-2015; Ord. No. 8, 2015 §1, 8-11-2015; Ord. No. 18, 2017, §2, 11-14-2017)

Sec. 6-4-130. - Change of location or modification of premises.

Any change of the location or any modification of the licensed premises shall be governed by the standards and procedures set forth in the Colorado Medical Marijuana Code and any regulations adopted pursuant thereto, and the Board of Trustees shall administer applications to change location or modify premises in the same manner as the state licensing authority administers changes of location and modifications of premises for state licenses. Any application for a proposed change of location shall fully comply with the spacing and zoning requirements as set forth in this Article and shall be subject to the public hearing requirements pursuant to Section 6-4-80(f). Any application for a proposed modification of the licensed premises shall comply with the spacing and zoning requirements as set forth in this Article, and any application for a proposed modification of the licensed premises which seeks to increase facility size, increase or enhance production of marijuana, or change the method of extraction, shall be subject to a new review and approval under the Unified Development Code.

(Ord. No. 9, 2014, 3-18-2014; Ord. No. 8, 2015 §1, 8-11-2015; Ord. No. 15, §1, 8-9-2016; Ord. No. 18, 2017, §4, 11-14-2017)

Sec. 6-4-140. - Ongoing license holder requirements; term of licenses; renewals.

- (a) Prior to operation of the licensed premise, the license holder shall provide the Town with the licensee's state-issued license.
- (b) During the term of the license, the license holder shall have an ongoing obligation to:
 - (1) Provide the Town with courtesy copies of all material that it voluntarily files or is required to file with the Colorado Department of Revenue Marijuana Enforcement Division;
 - (2) Provide the Town with courtesy copies of records of newly hired employees submitted to the Colorado State Directory of New Hires (SDNH); and
 - (3) Post a 24 x 36-inch sign within the licensed premises of a medical marijuana center which includes the warning statements set forth in Rule 1006 C.1.i. of the Colorado Department of Revenue Marijuana Enforcement Division Permanent Rules Related to the Colorado Retail Marijuana Code, as amended.
- (c) By signing and submitting a license application, the license holder consents to inspections of the licensed premises by Town personnel for purposes of determining compliance with Town and state law.
- (d) By signing and submitting a license application, the license holder agrees to attend any marijuana industry training programs hosted by the Town. A license holder may designate an employee of the licensed premises to attend such training programs, in lieu of attending personally.
- (e) Notwithstanding anything else in this Article to the contrary, the Town Clerk shall deny an application for license renewal if the Town Clerk determines that the application concerns a licensed premise that was nonoperational, not open for business, and did not sell marijuana product or services from its licensed premises during the immediately preceding six months. This subsection (e) shall only apply to applications for license renewal for which the underlying license, duly issued by the Town of Carbondale, stated the requirements of this subsection (e).
- (f) Upon receipt of an application for license renewal, the Town Clerk shall determine whether the requirements of this Article have been met. If the applicant for renewal has previously held the same license in the Town for two consecutive years in compliance with this Article and any special terms or conditions that were placed upon the licensee, and the Town Clerk otherwise determines that the requirements of this Article have been met, the Town Clerk may grant the license for renewal, in which case such license shall be ratified by the Board of Trustees on consent at a public meeting. In all other cases, the Town Clerk shall refer the application for license renewal to the Board of Trustees for review and a public hearing, pursuant to Section 6-5-110 of this Article.
- (g) Any local license issued pursuant to this Article shall be valid for a period of one year from the date of issuance and shall automatically expire after the one-year period has run. A license holder must apply for the renewal of an existing license at least 60 days prior to the license's expiration date. If the license holder fails to timely file a renewal application, the licensee must provide a written explanation detailing the circumstances surrounding the late filing. If the Town accepts the application, then it may elect to administratively continue the license beyond the expiration date, but for no longer than 60 days after the expiration date, while the Town completes the renewal licensing process, in which case, the license holder shall pay an additional \$1,000.00 fee to the Town prior to issuance of the renewed license.

(Ord. No. 9, 2014, 3-18-2014; Ord. No. 5, 2014 §9, 10-14-2014; Ord. No. 7, 2015 §16, 5-12-2015; Ord. No. 8, 2015 §1, 8-11-2015; Ord. No. 11, 2016, §1, 6-8-2016; Ord. No. 15, §1, 8-9-2016; Ord. No. 2, 2017, §1, 1-10-2017; Ord. No. 18, 2017, §7, 11-14-2017)

Sec. 6-4-150. - Reserved.

Editor's note— Ord. No. 11, 2016, §3, adopted June 8, 2016, repealed § 6-4-150, which pertained to disciplinary actions; sanctions; penalties. For prior history, see Code Comparison Table.

Sec. 6-4-160. - Operating fees.

- (a) Operating fees for medical marijuana centers, medical marijuana-infused products manufacturing facilities and optional premises cultivation facilities are as set forth in the Fee Schedule attached as Appendix A to this Code.

- (b) Recognizing that there is a potential adverse effect on the youth of the Town and surrounding areas because of the presence of medical marijuana establishments which exist and that education and enforcement will be necessary to educate the public about the adverse effects of marijuana on their health and development and enforce the Town's medical marijuana law, an annual Medical Marijuana Licensing Educational and Enforcement Fee shall be paid by the applicant and held by the Town in a separate account entitled Medical Marijuana Licensing Educational and Enforcement Fee Account. The Town may disburse these funds as the Town deems consistent with this Section to those entities, persons, departments or agencies which will use these funds for educational programs to be administered to youth or for additional enforcement activities necessitated by the availability of marijuana and illegal use by youth. All requests for said funds shall be made in writing to the Town, with a complete description of the program for which said moneys will be used, the amount requested, dates of the program to whom such programs will be made available and all other information about said programs. A complete accounting shall be provided to the Town within 60 days after said funds are disbursed or used, showing how said funds were actually used.

(Ord. No. 9, 2014, 3-18-2014; Ord. No. 8, 2015 §1, 8-11-2015)

ARTICLE 5 - Retail Marijuana Licensing Procedures

Sec. 6-5-10. - Purpose and legislative intent.

- (a) Section 16 of Article XVIII of the Colorado Constitution authorizes a system of state licensing for businesses engaging in the cultivation, testing, manufacturing and retail sale of marijuana, collectively referred to as "retail marijuana establishments" by Article XVIII, Subsection 16(5)(f) of the Colorado Constitution which allows municipalities within their jurisdictions to prohibit state licensing of marijuana establishments; regulate the time, place and manner in which marijuana establishments may operate; and limit the total number of marijuana establishments. The authority of localities to prohibit or regulate marijuana establishments within their respective jurisdictions, including the authority to engage in local licensing of marijuana establishments, is also reflected in various provisions of the Colorado Marijuana Code.
- (b) The purpose of this Article is to exercise the authority of the Town to allow state-licensed marijuana establishments to exist in the Town in accordance with applicable state laws and regulations, as well as the additional local licensing requirements and other restrictions set forth in this Article.

(Ord. No. 11, 2013 §2, 9-24-2013; Ord. No. 8, 2015 §1, 8-11-2015)

Sec. 6-5-20. - Authority.

This Article is adopted pursuant to the constitutional and statutory authority contained in Section 6-5-10 above, as well as the Town's plenary home rule authority to adopt and enforce ordinances under its police power in order to preserve the public health, safety and general welfare.

(Ord. No. 11, 2013 §2, 9-24-2013; Ord. No. 8, 2015 §1, 8-11-2015)

Sec. 6-5-30. - Definitions.

The definitions set forth in Article XVIII, Subsection 16(2) of the Colorado Constitution, as well as the Colorado Retail Marijuana Code, shall apply equally to this Article. In addition, the following terms shall have the following meanings:

Alcohol or drug treatment facility means either of the Jaywalker Lodge facilities located at 811 Main Street and 725 Main Street, as well as any other transitional residential treatment facility operating after the effective date of this Article, licensed by the Colorado Department of Human Services and which the Board of Trustees designates as an alcohol or drug treatment facility for purposes of approving or denying an application for licensing of a retail marijuana establishment.

Co-location means a medical marijuana center and a retail marijuana store that are side-by-side but with separate entrances.

Colorado Retail Marijuana Code means Article 43.4 of Title 12, C.R.S.

Coterminous means a medical marijuana center and a retail marijuana store in a completely shared space.

Day care home means a facility licensed by the County or the State which is maintained for the care of more than two children under the age of 16 years who are not related to the owner, operator or manager thereof, which facility is operated with or without compensation for such care. A *small day care home* is a facility for less than seven children, and a *large day care home* is a facility for seven or more children.

Primary home means that home or place in which a person's habitation is fixed and to which the person, whenever absent, has the present intention of returning after a departure or absence therefrom, regardless of the duration of such absence. A *primary home* is a permanent building or part of a permanent building and may include, by way of example, a house, condominium, apartment, room in a house or manufactured housing. No rental property, a vacant lot, vacant house or cabin or other premises used solely for business purposes shall be considered a primary home.

School means any public or private school meeting all requirements of the compulsory education laws of the State and providing instruction to students in Kindergarten through Grade 12 and which are licensed through the State, colleges and college campuses and licensed preschool facilities. *School* does not include home-schooling facilities that are located within residential structures or other structures on a part-time basis.

(Ord. No. 11, 2013 §2, 9-24-2013; Ord. No. 8, 2015 §1, 8-11-2015)

Sec. 6-5-40. - Effective date; applicability.

- (a) This Article shall be effective October 1, 2013, and shall govern all applications submitted to the state licensing authority for licensing of any retail marijuana establishment in the Town under the Colorado Retail Marijuana Code on or after that date.
- (b) Except as otherwise specifically provided herein, this Article shall not affect or apply to any business licensed under the Colorado Medical Marijuana Code, Article 43.3 of Title 12, C.R.S., and Article 4 of this Chapter.

(Ord. No. 11, 2013 §2, 9-24-2013; Ord. No. 8, 2015 §1, 8-11-2015)

Sec. 6-5-50. - Transition provisions.

The following provisions shall govern all applications for licensing of retail marijuana establishments submitted to the Town:

- (1) After July 1, 2014:
 - a. Any person who qualifies for licensing under applicable state and Town laws may apply on a form prescribed by the Board of Trustees or the Town Clerk for licensing of a retail marijuana establishment, co-location or coterminous licensed premises in the Town;
 - b. Any person who obtains a transfer of ownership of state and local licenses and is operating in good standing may apply for licensing of a retail marijuana establishment, co-location or coterminous licensed premises in the Town; and
 - c. Any person who obtains a change of location of the state and local licenses and is operating in good standing may apply for licensing of a retail marijuana establishment, co-location or coterminous licensed premises in the Town.
- (2) No more than five retail marijuana products manufacturing facilities may be licensed within the Town of Carbondale; no more than three retail marijuana cultivation facilities may be licensed within the Town of Carbondale; and no more than five retail marijuana testing facilities may be licensed within the Town of

Carbondale.

- (3) Until September 30, 2014, the temporary wholesale sales and purchase limitation imposed on retail marijuana stores pursuant to Colorado Department of Revenue Marijuana Enforcement Division Permanent Rule 402, the temporary limitations on retail marijuana stores pursuant to Colorado Department of Revenue Marijuana Enforcement Division Permanent Rule 502 and the temporary sales limitation on retail marijuana products manufacturing facilities pursuant to Colorado Department of Revenue Marijuana Enforcement Division Permanent Rule 602 shall remain in place in the Town.

(Ord. No. 11, 2013 §2, 9-24-2013; Ord. No. 7, 2014 §1, 3-18-2014; Ord. No. 5, 2014 §1, 10-14-2014; Ord. No. 6, 2015, 5-12-2015; Ord. No. 8, 2015 §1, 8-11-2015; Ord. No. 12, 2016, §2, 7-13-2016; Ord. No. 18, 2017, §1, 11-14-2017)

Sec. 6-5-60. - Local Licensing Authority.

- (a) The Board of Trustees is hereby designated to act as the Local Licensing Authority for the Town, in accordance with the Colorado Retail Marijuana Code. Under any and all circumstances in which state law requires communication to the Town by the state licensing authority or any other state agency regarding the licensing of retail marijuana establishments by the State, or in which state law requires any review or approval by the Town of any action taken by the state licensing authority, the exclusive authority for receiving such communications and granting such approvals shall be exercised by the Board of Trustees or by the Town Clerk on behalf of the Board of Trustees, pursuant to this Article.
- (b) Under no circumstances shall the Board of Trustees receive or act upon any application for local licensing of a retail marijuana establishment when the State has failed to act in accordance with Section 16 of Article XVIII of the Colorado Constitution, it being the intent of this Section that no retail marijuana establishment may lawfully exist in the Town absent the issuance of a state license and full regulatory oversight of the retail marijuana establishment by the State, as well as the Town. Accordingly, the Board of Trustees shall not receive or act upon any application for local licensing submitted independently and in lieu of state licensing.

(Ord. No. 11, 2013 §2, 9-24-2013; Ord. No. 8, 2015 §1, 8-11-2015)

Sec. 6-5-70. - Relationship to Colorado Retail Marijuana Code, other laws.

Except as otherwise specifically provided herein, this Article incorporates and adopts the requirements and procedures set forth in the Colorado Retail Marijuana Code and the provisions of the Colorado Rules and Regulations promulgated thereunder, as amended, relating to the definition of terms, licensing, sales, hours of sale, records, inspection, unlawful acts and all other matters pertaining to retail marijuana, as if set out in full herein. In the event of any conflict between the provisions of this Article and the provisions of the Colorado Retail Marijuana Code or any other applicable state or local law, the more restrictive provision shall control.

(Ord. No. 11, 2013 §2, 9-24-2013; Ord. No. 7, 2015 §2, 5-12-2015; Ord. No. 8, 2015 §1, 8-11-2015)

Sec. 6-5-80. - Unlawful acts.

It is unlawful for any person to:

- (1) Operate any retail marijuana establishment in the Town without a license duly issued by the state licensing authority under the Colorado Retail Marijuana Code and in compliance with any and all applicable state laws;
- (2) Operate any retail marijuana establishment in the Town without a license duly issued by the Town Clerk on behalf of the Board of Trustees under this Article and in compliance with any and all applicable Town laws;
- (3) Engage in any form of business or commerce involving the cultivation, processing, manufacturing, storage, sale, distribution or consumption of marijuana other than those forms that are expressly contemplated by

Section 16 of Article XVIII of the Colorado Constitution, the Colorado Retail Marijuana Code or the Colorado Medical Marijuana Code; or

- (4) Sell marijuana or marijuana products from marijuana plants processed, grown, processed or transported for personal use pursuant to Article XVIII, Subsection 16(3) of the Colorado Constitution.

(Ord. No. 11, 2013 §2, 9-24-2013; Ord. No. 8, 2015 §1, 8-11-2015)

Sec. 6-5-90. - Classes of licensing authorized.

For the purpose of regulating the cultivation, manufacture, testing, distribution, offering for sale and sale of retail marijuana, the Board of Trustees, in its sole discretion, upon application in the prescribed form made to the Board of Trustees, may issue and grant to the applicant a local license from any of the following classes, and the Town hereby authorizes issuance of the licenses of the following classes by the state licensing authority in locations in the Town, subject to the provisions provided in this Article:

- (1) Retail marijuana store;
- (2) Retail marijuana cultivation facility;
- (3) Retail marijuana products manufacturing facility; and
- (4) Retail marijuana testing facility.

(Ord. No. 11, 2013 §2, 9-24-2013; Ord. No. 8, 2015 §1, 8-11-2015)

Sec. 6-5-100. - Screening and response to state license applications.

- (a) Upon receipt of notice from the state licensing authority of any application for a license under the Colorado Retail Marijuana Code, the Town Clerk, on behalf of the Board of Trustees, shall determine with the Town Manager, the Planning Department, the Building Department and other Town staff, as needed, whether the proposed location complies with any and all zoning and land use laws or other restrictions of the Town, as well as restrictions on the location of retail marijuana establishments set forth in this Article.
- (b) No more than 45 days from the date the application is received by the Town, the Town Clerk, on behalf of the Board of Trustees, shall notify the state licensing authority, in writing, that either:
 - (1) The proposed licensed premises violate a zoning law or other restriction on location set forth in Town laws and the application is disapproved by the Town. Any failure to make such a determination upon the initial review of a state license application shall not preclude the Town Clerk or the Board of Trustees from later determining that the proposed license is in violation of Town zoning laws or any other restriction on location set forth in Town laws and disapproving the issuance of a state or Town license on this basis; or
 - (2) The application that is not disapproved as provided in Paragraph (1) above and the Town's ultimate decision to approve or deny the issuance of the state license in the Town are subject to the completion of the local licensing processes as set forth in this Article, after which the Town will notify the state licensing authority, in writing, of whether the retail marijuana establishment proposed in the application has or has not been approved by the Town.

(Ord. No. 11, 2013 §2, 9-24-2013; Ord. No. 8, 2015 §1, 8-11-2015)

Sec. 6-5-110. - Licensing requirements and procedure; provisions applicable to all licenses.

- (a) *Generally.* All local license applications shall be filed with the Town Clerk. The Board of Trustees shall consider and act upon all local license applications filed with the Town Clerk in accordance with the standards and procedures set forth in this Article. The Board of Trustees shall deny any application for a license that is not in full compliance with

the Colorado Retail Marijuana Code, this Article and any other applicable state or Town law or regulation. The Board of Trustees shall also deny any application that contains any false or incomplete information.

- (b) *Application forms and supplemental materials.* All applications for local licensing of retail marijuana establishments shall be made upon forms approved by the Board of Trustees and provided by the Town Clerk. Applications shall be accompanied by the following documentation and information:
- (1) Area map. An area map of the Town that is drawn to scale and demonstrates that the proposed licensed premises complies with Town zoning and location restrictions by depicting the proximity of the proposed licensed premises to any school, day care home, alcohol or drug treatment facility, retail marijuana store or medical marijuana center.
 - (2) List of employees. The names and addresses of any employees or proposed employees of the retail marijuana establishment.
 - (3) Materials to comply with state law. Any such materials required to be provided to the State in order to receive a State-issued retail marijuana license pursuant to the Colorado Retail Marijuana Code and rules adopted pursuant thereto, including, by way of example, proof of possession of the licensed premises, disclosures related to ownership of the proposed business, fingerprints of the applicants and employees, building plans and security plans.
 - (4) Supplemental materials to comply with local law. Any other documentation as may be necessary to effectively enforce this Article and other Town laws.
 - (5) Proof of possession of the licensed premises. Proof of a lease or other written agreement authorizing the applicant to utilize the premises as a retail marijuana facility for a period of at least one year from the date of issuance of the license.
 - (6) Disclosures related to ownership of the proposed business. Provide a Certificate of Good Standing from the Colorado Secretary of State, for applicants that are corporations, partnerships, or limited liability companies.
- (c) *Notice of applications to departments and agencies.* Upon receipt of an application for any class of local license, the Town Clerk shall give notice of the application to the Board of Trustees, the Town Manager, the Planning Department, the Building Department and the Police Department. Any applicant for a license under this Article shall obtain any and all necessary permits, licenses and other regulatory approvals from the other affected Town departments and agencies prior to the issuance of a license under this Article.
- (d) *Notice of initial determination to applicant.* No more than 35 days from the date the application is received by the Town, the Town Clerk shall provide a notice of initial determination to the applicant as to whether the application is complete and the proposed licensed premises violates any zoning law or other restriction on location set forth in Town laws. If such application is incomplete or if such proposed licensed premises violates Town laws, the applicant shall have 14 days to cure the application or violation before the Town Clerk notifies the State that the application is disapproved by the Town.
- (e) *Scheduling public hearing.* Within 45 days from the date the application is deemed complete, the Town Clerk shall schedule a public hearing to consider the application for licensing of the retail marijuana establishment in accordance with the requirements of Subsection (f) below.
- (f) *Public hearing.* The following public hearing procedure applies when an application has been deemed complete and has been found to comply with all zoning laws and other retail marijuana location restrictions set forth in Town laws. This public hearing procedure applies to any application for licensing of any retail marijuana establishment and to any application for licensing renewal if the renewal application is referred to the Board of Trustees by the Town Clerk pursuant to Section 6-5-180 of this Article.
- (1) Public notice of the application shall be given as follows:
 - a. Posting of a sign by the applicant on the premises for which application has been made, not less than 15 days prior to the public hearing, stating the date of the application, 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. The Town Clerk shall provide the sign to the applicant for posting. If the building in which the retail marijuana establishment is to be located is in existence at the time of the application, any sign posted shall be placed so as to be conspicuous and plainly visible to the general public. If the building is not constructed at the time of the application, the applicant shall post the notice at the premises upon which the building is to be constructed in such a manner that the notice shall be conspicuous and plainly visible to the general public.

- b. Written notice mailed 15 days prior to the public hearing, with prepaid first-class postage, to all property owners of record, as recorded at the office of the County Assessor, of property within 300 feet of the proposed licensed premises. The applicant is responsible for obtaining the list of owners and making the mailing. Notice given by written mailing shall contain the same information as that required for signs.
 - c. Publication of notice by the Town Clerk, not less than 15 days prior to the public hearing, in a newspaper of general circulation. Notice given by publication shall contain the same information as that required for signs.
- (2) At the public hearing held pursuant to this Section:
- a. The Board of Trustees must make a finding and determination as to the good moral character of the applicant, meaning that the applicant has a personal history demonstrating honesty, fairness and respect for the right of others and for the law.
 - b. The Board of Trustees may consider the number, type and availability of the same type of retail marijuana establishment in the Town; the proximity of the subject license to the same class of retail marijuana establishment; the proximity of the subject license to other medical marijuana and retail marijuana establishments; the degree of concentration of medical marijuana and retail marijuana establishments; the reasonable requirements of the neighborhood; and potential impacts to the neighborhood by the granting of the subject license.
 - c. The Board of Trustees may deny the application to license any retail marijuana establishment in the same location where any medical marijuana establishment or retail marijuana establishment is or has been previously licensed if there is evidence that the previously licensed premises was operated in a manner that adversely affects the public health, welfare or safety of the residents of the Town.
 - d. Any party in interest shall be allowed to present evidence relevant to the issuance of a license. The term party in interest means the applicant or an adult resident of the Town. The Board of Trustees, in its discretion, may limit the presentation of evidence so as to prevent repetitive and cumulative evidence or examination.
 - e. The Board of Trustees shall consider the facts and evidence adduced as a result of its investigation, as well as any other facts, and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed.
- (3) Not less than seven days after the date of the hearing, the Town Clerk shall make known, in writing, to the applicant and other interested parties, the Board of Trustees' findings based on its investigation.
- (4) The Board of Trustees has authority to refuse to issue any retail marijuana establishment license for good cause, subject to judicial review. The term *good cause* means that the applicant has violated, does not meet or has failed to comply with any of the terms, conditions or provisions of the Colorado Retail Marijuana Code or any rules or regulations promulgated pursuant thereto, or this Article or rules or regulations promulgated pursuant to this Chapter; the applicant has failed to comply with any special terms or conditions that were placed upon the licensee by the Town; or the proposed licensed premises cannot be supported by the existing infrastructure of the Town.
- (5) The Board of Trustees may approve a retail marijuana establishment license with specific conditions. The

Board of Trustees may refuse to issue a retail marijuana establishment license for good cause, subject to judicial review. The term good cause means that the applicant has violated, does not meet or has failed to comply with any of the terms, conditions or provisions of the Colorado Retail Marijuana Code or any rules or regulations promulgated pursuant thereto, or this Article or rules or regulations promulgated pursuant to this Chapter; the applicant has failed to comply with any special terms or conditions that were placed upon the licensee by the Town; or the proposed licensed premises cannot be supported by the existing infrastructure of the Town.

- (g) *Signs and advertising.* Restrictions on signs and advertising shall be governed by the standards and procedures set forth in the Colorado Retail Marijuana Code and any regulations adopted pursuant thereto. In addition, all retail marijuana establishments are limited to no more than two signs: one sign on the door of the establishment with a maximum size of two square feet, and one other sign to be located in or on the windows, roof or walls of the establishment, or on the premises, with a maximum size of 12 square feet, or the sizes prescribed by Chapter 17.05, Section 5.9 of the Municipal Code (the Town Sign Code), whichever is more restrictive. Both of these types of signs shall exist solely for the purpose of indicating the name, address, type and location of the retail marijuana establishment, and no sign shall contain additional logos, symbols or other visual information depicting or promoting marijuana plants, marijuana products, marijuana use, or the marijuana industry in general. All such signage shall also otherwise comply with this Article and any other applicable Town laws and regulations regarding signs and advertising, including the Town Sign Code. With the exception of these two types of signs allowed to be utilized by licensed retail marijuana establishments, it shall be unlawful for any person licensed under this Article or for any other person or entity to otherwise advertise any recreational marijuana establishment or product within the Town of Carbondale utilizing any of the following media: any billboard or other outdoor general advertising; any sign mounted on or otherwise affixed to a vehicle; any handheld or other portable sign; or any handbill, leaflet, or flier directly handed to any person in a public place, left upon a motor vehicle, or posted upon any public or private property. Any violation of these signage or advertising restrictions by any person licensed under this Article may be subject to the disciplinary actions, sanctions and penalties set forth in Section 6-5-190 of this Code, and/or serve as grounds for the Town Clerk to refer any license renewal application to the Board of Trustees for review and a public hearing pursuant to Sections 6-5-180(d) and 6-5-110 of this Article. Any violation of these retail marijuana signage and advertising restrictions by any other person may be subject to the penalties set forth in Section 1-4-20 of the Municipal Code.

(Ord. No. 11, 2013 §2, 9-24-2013; Ord. No. 5, 2014 §§10, 11, 10-14-2014; Ord. No. 7, 2015 §3, 5-12-2015; Ord. No. 8, 2015 §1, 8-11-2015; Ord. No. 11, 2016, §2, 6-8-2016; Ord. No. 12, 2016, §2, 7-13-2016; Ord. No. 18, 2017, §8, 11-14-2017)

Sec. 6-5-120. - Retail marijuana store licensing requirements.

In addition to the requirements set forth in the Colorado Retail Marijuana Code, any rules or regulations adopted pursuant thereto and those requirements set forth in Section 6-5-110 above, the following requirements shall apply to the issuance of any local license for a retail marijuana store:

- (1) *Compliance with zoning.* A local license for a retail marijuana store may only be issued pursuant to the Unified Development Code either as an approved special use within the Industrial (I) zone district, pursuant to the terms, conditions or procedures established by any ordinance governing a planned unit development, or for those lots which, at the time of the application for the license, are within another zone district that permits retail sales, except that in no case may a license be issued for a home occupation under the Unified Development Code or in the prohibited locations set forth below. This restriction shall not apply to any location where the Town previously issued a medical marijuana center license under Article 4 of this Chapter and a licensed medical marijuana center has existed in continuous operation at the subject location since the time of original licensing, nor shall this restriction be construed to prohibit the licensing of a retail marijuana

store under common ownership with and at the same location as a licensed medical marijuana center, to the extent permitted by the Colorado Retail Marijuana Code and any rules and regulations adopted pursuant thereto.

- (2) Prohibited locations. No retail marijuana store license shall be issued for the following locations:
- a. Within 500 feet of any school or day care home existing at the time of the application, with the distance computed using a route of direct pedestrian access from the nearest property line of the land used for school or day care home purposes to the nearest portion of the building in which the retail marijuana store is proposed to be located.
 - b. Within 400 feet of any other retail marijuana store or medical marijuana center licensed under Article 4 of this Chapter, located on Main Street between Snowmass Drive and 7th Street and existing at the time of the application, computed using a route of direct pedestrian access from the nearest portion of the building used for a retail marijuana store to the nearest portion of the building in which the retail store is proposed to be located. This restriction shall not apply to any location proposed for licensing as a retail marijuana store where the Town has previously issued a medical marijuana center license under Article 4 of this Code and a licensed medical marijuana center has existed in continuous operation at the subject location since the time of original licensing, nor shall this restriction be construed to prohibit the licensing of a retail marijuana store under common ownership with and at the same location as a licensed medical marijuana center, to the extent permitted by the Colorado Retail Marijuana Code and any rules and regulations adopted pursuant thereto.
 - c. Within 500 feet of any alcohol or drug treatment facility existing at the time of the application, computed using a route of direct pedestrian access from the nearest property line of the land used for alcohol or drug treatment facility purposes to the nearest portion of the building in which the retail marijuana store is proposed to be located. This restriction shall not apply to any location where the Town previously issued a medical marijuana center license under Article 4 of this Chapter and a licensed medical marijuana center has existed in continuous operation at the subject location since the time of original licensing.
- (3) Off-site delivery of product by licensee prohibited. All sales and distribution of retail marijuana by a licensed retail marijuana store shall occur only upon the licensed premises, and the licensee shall be strictly prohibited from delivering retail marijuana to any person at any other location.
- (4) Local residency requirement. The applicant seeking licensure must provide the Town of Carbondale with the name of an agent of the proposed licensee who will serve as a point of contact for the Town. Such agent shall hold at least a ten percent ownership interest in the retail marijuana store and shall have a primary home (as the term is defined in this Section 6.5.120(4)) within the 81601, 81621, or 81623 Colorado zip codes (hereinafter "Agent"). The applicant shall provide Town staff with documentation to prove compliance with this local residency requirement. If, during the term of the license, the license holder desires to change the Agent, the license holder shall provide to Town staff a "Statement of Agent Change," and such replacement Agent shall appear at a regularly scheduled meeting of the Board of Trustees of the Town of Carbondale on the date as given and directed by Town staff. Failure to file the Statement of Agent Change, failure of the replacement Agent to appear before the Board of Trustees of the Town of Carbondale, or failure of the license holder to designate and transfer ownership to the replacement Agent within six months of any termination of the prior Agent constitutes a violation of the terms and conditions of the license.

(Ord. No. 11, 2013 §2, 9-24-2013; Ord. No. 1, 2014 §1, 1-14-2014; Ord. No. 5, 2014 §2, 10-14-2014; Ord. No. 7, 2015 §5, 5-12-2015; Ord. No. 8, 2015 §1, 8-11-2015; Ord. No. 16, §1, 8-23-2016)

In addition to the requirements set forth in the Colorado Retail Marijuana Code, any rules or regulations adopted pursuant thereto and those requirements set forth in Section 6-5-110 above, the following requirements shall apply to the issuance of any local license for a retail marijuana products manufacturing facility:

- (1) Prohibited locations. No retail marijuana products manufacturing facility license shall be issued for the following locations:
 - a. Within 500 feet of any school or day care home existing at the time of the application, with the distance computed using a route of direct pedestrian access from the nearest property line of the land used for school or day care home purposes to the nearest portion of the building in which the retail marijuana products manufacturing facility is proposed to be located.
 - b. Within 500 feet of any alcohol or drug treatment facility existing at the time of the application, computed using a route of direct pedestrian access from the nearest property line of the land used for alcohol or drug treatment facility purposes to the nearest portion of the building in which the retail marijuana products manufacturing facility is proposed to be located. This restriction shall not apply to any location where the Town has previously issued a medical marijuana license under Article 4 of this Chapter and a licensed medical marijuana center has existed in continuous operation at the subject location since the time of original licensing.
- (2) Compliance with zoning and performance measures. A local license for a retail marijuana products manufacturing facility may only be issued for those lots which, at the time of the application for the license, are within the Commercial/Retail/Wholesale (CRW) or General Industrial (I) zone districts pursuant to the Unified Development Code. However, the applicant must also secure a special use permit, pursuant to the Unified Development Code, for the retail marijuana products manufacturing facility. Any such special use permit shall only be granted upon showing of evidence by the applicant that the retail marijuana products manufacturing facility will sufficiently control or mitigate any odor, wastewater and hazardous material impacts on the Town.
- (3) Sanitation, product labeling and public health standards. Sanitary standards for retail marijuana products manufacturing facilities shall be as provided by the Colorado Retail Marijuana Code and any other applicable state laws and regulations. Any and all retail marijuana products packaged by a licensed retail marijuana products manufacturing facility shall be labeled in accordance with state law.
- (4) Local residency requirement. The applicant seeking licensure must provide the Town of Carbondale with the name of an agent of the proposed licensee who will serve as a point of contact for the Town. Such agent shall hold at least a ten percent ownership interest in the retail marijuana products manufacturing facility and shall have a primary home (as the term is defined in this Section 6.5.130(4)) within the 81601, 81621, or 81623 Colorado zip codes (hereinafter "Agent"). The applicant shall provide Town staff with documentation to prove compliance with this local residency requirement. If, during the term of the license, the license holder desires to change the Agent, the license holder shall provide to Town staff a "Statement of Agent Change," and such replacement Agent shall appear at a regularly scheduled meeting of the Board of Trustees of the Town of Carbondale on the date as given and directed by Town staff. Failure to file the Statement of Agent Change, failure of the replacement Agent to appear before the Board of Trustees of the Town of Carbondale, or failure of the license holder to designate and transfer ownership to the replacement Agent within six months of any termination of the prior Agent constitutes a violation of the terms and conditions of the license.

(Ord. No. 11, 2013 §2, 9-24-2013; Ord. No. 5, 2014 §3, 10-14-2014; Ord. No. 7, 2015 §6, 5-12-2015; Ord. No. 8, 2015 §1, 8-11-2015; Ord. No. 16, §2, 8-23-2016)

In addition to the requirements set forth in the Colorado Retail Marijuana Code, any rules or regulations adopted pursuant thereto and those requirements set forth in Section 6-5-110 of this Article, the following requirements shall apply to the issuance of any local license for a retail marijuana cultivation facility:

- (1) Prohibited locations. No retail marijuana cultivation facility license shall be issued for the following locations:
 - a. Within 500 feet of any school or day care home existing at the time of the application, with the distance computed using a route of direct pedestrian access from the nearest property line of the land used for school or day care home purposes to the nearest portion of the building in which the retail marijuana cultivation facility is proposed to be located.
 - b. Within 500 feet of any alcohol or drug treatment facility existing at the time of the application, computed using a route of direct pedestrian access from the nearest property line of the land used for alcohol or drug treatment facility purposes to the nearest portion of the building in which the retail marijuana cultivation facility is proposed to be located. This restriction shall not apply to any location where the Town previously issued a medical marijuana center license under Article 4 of this Chapter and a licensed medical marijuana center has existed in continuous operation at the subject location since the time of original licensing.
 - c. Within 400 feet of any existing optional premises cultivation facility or other retail marijuana cultivation facility at the time of the application, with the distance computed using a route of direct pedestrian access from the nearest property line of the land used for the neighboring optional premises cultivation facility or retail marijuana cultivation facility to the nearest portion of the building in which the subject retail marijuana cultivation facility is proposed to be located.
- (2) Compliance with zoning and performance measures. A local license for a retail marijuana cultivation facility may only be issued for those lots that, at the time of the application for the license, are within the Commercial/Retail/ Wholesale (CRW) or General Industrial (I) zone district pursuant to the Unified Development Code. However, the applicant must also secure a special use permit, pursuant to the Unified Development Code, for the retail marijuana cultivation facility. Any such special use permit shall only be granted upon showing of evidence by the applicant that the retail marijuana cultivation facility will sufficiently control or mitigate any odor, wastewater and hazardous material impacts to the Town.
- (3) Local residency requirement. The applicant seeking licensure must provide the Town of Carbondale with the name of an agent of the proposed licensee who will serve as a point of contact for the Town. Such agent shall hold at least a ten percent ownership interest in the retail marijuana cultivation facility and shall have a primary home (as the term is defined in this Section 6.5.140(3)) within the 81601, 81621, or 81623 Colorado zip codes (hereinafter "Agent"). The applicant shall provide Town staff with documentation to prove compliance with this local residency requirement. If, during the term of the license, the license holder desires to change the Agent, the license holder shall provide to Town staff a "Statement of Agent Change," and such replacement Agent shall appear at a regularly scheduled meeting of the Board of Trustees of the Town of Carbondale on the date as given and directed by Town staff. Failure to file the Statement of Agent Change, failure of the replacement Agent to appear before the Board of Trustees of the Town of Carbondale, or failure of the license holder to designate and transfer ownership to the replacement Agent within six months of any termination of the prior Agent constitutes a violation of the terms and conditions of the license.
- (4) Renewable energy requirements for marijuana cultivation. All retail marijuana cultivation facilities and medical marijuana optional premises cultivation facilities shall source 30 percent of the total energy used in the operation of such facilities or premises from renewable energy sources, whether on-site or off-site, including, but not limited to, wind power, hydro power, and solar power. In conjunction with licensing pursuant to Chapters 5.25 and 5.26 of the Municipal Code, applicants for initial licensing shall provide information to the

Town of Carbondale to demonstrate the ability to comply with this renewable energy requirement. Applicants for licensing renewal shall provide information to the Town of Carbondale to verify compliance with this renewable energy requirement.

(Ord. No. 11, 2013 §2, 9-24-2013; Ord. No. 7, 2014 §2; Ord. No. 5, 2014 §4, 10-14-2014; Ord. No. 7, 2015 §§7, 13, 5-12-2015; Ord. No. 8, 2015 §1, 8-11-2015; Ord. No. 16, §3, 8-23-2016; Ord. No. 3, 2015, §1, 3-17-2015)

Sec. 6-5-150. - Retail marijuana testing facility licensing requirements.

In addition to the requirements set forth in the Colorado Retail Marijuana Code and any rules or regulations adopted pursuant thereto, the following requirements shall apply to the issuance of a retail marijuana testing facility license:

- (1) Compliance with zoning. A local license for a retail marijuana testing facility may only be issued for those lots on which, at the time of application for the license, testing laboratories constitute a permitted use pursuant to the Unified Development Code.
- (2) No shared interest. No local retail marijuana testing facility license may be issued to any applicant that shares an interest in a medical marijuana establishment or retail marijuana establishment located within the Town.

(Ord. No. 11, 2013 §2, 9-24-2013; Ord. No. 8, 2015 §1, 8-11-2015; Ord. No. 12, 2016, §2, 7-13-2016)

Sec. 6-5-160. - Transfer of ownership.

Full transfer or partial transfer of ownership of ownership of any local license issued pursuant to this Article shall be governed by the standards and procedures set forth in the Colorado Retail Marijuana Code and any regulations adopted pursuant thereto, and the Board of Trustees shall administer transfers of local licenses in the same manner as the state licensing authority administers transfers of state licenses. The public hearing requirements set forth in Section 6-5-110(f) above shall apply to all applications for full or partial transfer of ownership of any local license, except in the instance that a license holder has filed a Statement of Agent Change, as set forth in this Article. The submission or pendency of an application for full or partial transfer of ownership does not relieve the license holder from the obligation to properly apply to renew such license in accordance with Section 6-5-180(g).

(Ord. No. 11, 2013 §2, 9-24-2013; Ord. No. 7, 2015 §11, 5-12-2015; Ord. No. 8, 2015 §1, 8-11-2015; Ord. No. 18, 2017, §3, 11-14-2017)

Sec. 6-5-170. - Change of location; modification of premises.

Any change of the location or any modification of the licensed premises shall be governed by the standards and procedures set forth in the Colorado Retail Marijuana Code and any regulations adopted pursuant thereto, and the Board of Trustees shall administer applications to change location or modify premises in the same manner as the state licensing authority administers changes of location and modifications of premises for state licenses. Any application for a proposed change of location shall fully comply with the spacing and zoning requirements as set forth in this Article and shall be subject to the public hearing requirements pursuant to Section 6-5-110(f). Any application for a proposed modification of the licensed premises shall comply with the spacing and zoning requirements as set forth in this Article, and any application for a proposed modification of the licensed premises which seeks to increase facility size, seeks to increase or enhance production of marijuana, or change the method of extraction, shall be subject to a new review and approval under the Unified Development Code.

(Ord. No. 11, 2013 §2, 9-24-2013; Ord. No. 8, 2015 §1, 8-11-2015; Ord. No. 15, §2, 8-9-2016; Ord. No. 18, 2017, §5, 11-14-2017)

Sec. 6-5-180. - Ongoing license holder requirements; term of licenses; renewals.

- (a) Prior to operation of the licensed premises, the license holder shall provide the Town with the licensee's State-issued I
- (b) During the term of the license, the license holder shall have an ongoing obligation to:
 - (1) Provide the Town with courtesy copies of all material that it voluntarily files or is required to file with the Colorado Department of Revenue Marijuana Enforcement Division;
 - (2) Provide the Town with courtesy copies of records of newly hired employees submitted to the Colorado State Directory of New Hires (SDNH); and
 - (3) Post a 40 x 60 inch sign within the licensed premises of a retail marijuana store which includes warning statements set forth in Rule 1006 C.1.i of the Colorado Department of Revenue Marijuana Enforcement Division Permanent Rules Related to the Colorado Retail Marijuana Code, as amended.
- (c) By signing and submitting a license application, the license holder consents to inspections of the licensed premises by Town personnel for purposes of determining compliance with Town and state law.
- (d) By signing and submitting a license application, the license holder agrees to attend any marijuana industry training programs hosted by the Town. A license holder may designate an employee of the licensed premises to attend such training programs, in lieu of attending personally
- (e) Notwithstanding anything else in this Article to the contrary, the Town Clerk shall deny an application for license renewal if the Town Clerk determines that the application concerns a licensed premise that was nonoperational, not open for business, and did not sell marijuana product or services from its licensed premises during the immediately preceding six months. This subsection (e) shall only apply to applications for license renewal for which the underlying license, duly issued by the Town of Carbondale, stated the requirements of this subsection (e).
- (f) Upon receipt of an application for license renewal, the Town Clerk shall determine whether the requirements of this Article have been met. If the applicant for renewal has previously held the same license in the Town for two consecutive years in compliance with this Article and any special terms or conditions that were placed upon the licensee, and the Town Clerk otherwise determines that the requirements of this Article have been met, the Town Clerk may grant the license for renewal, in which case such license shall be ratified by the Board of Trustees on consent at a public meeting. In all other cases, the Town Clerk shall refer the application for license renewal to the Board of Trustees for review and a public hearing, pursuant to Section 6-5-110 of this Article.
- (g) Any local license issued pursuant to this Article shall be valid for a period of one year from the date of issuance and shall automatically expire after the one-year period has run. A license holder must apply for the renewal of an existing license at least 60 days prior to the license's expiration date. If the license holder fails to timely file a renewal application, the licensee must provide a written explanation detailing the circumstances surrounding the late filing. If the Town accepts the application, then it may elect to administratively continue the license beyond the expiration date, but for no longer than 60 days after the expiration date, while the Town completes the renewal licensing process, in which case, the license holder shall pay an additional \$1,000.00 fee to the Town prior to issuance of the renewed license.

(Ord. No. 11, 2013 §2, 9-24-2013; Ord. No. 5, 2014 §8, 10-14-2014; Ord. No. 7, 2015 §15, 5-12-2015; Ord. No. 8, 2015 §1, 8-11-2015; Ord. No. 11, 2016, §2, 6-8-2016; Ord. No. 15, §2, 8-9-2016; Ord. No. 2, 2017, §2, 1-10-2017; Ord. No. 18, 2017, §6, 11-14-2017)

Sec. 6-5-190. - Reserved.

Editor's note— Ord. No. 11, 2016, §3, adopted June 8, 2016, repealed § 6-5-190, which pertained to disciplinary actions; sanctions; penalties. For prior history, see Code Comparison Table.

Sec. 6-5-200. - Operating fees.

Operating fees for retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities are as set forth in the Fee Schedule attached as Appendix A to this Code.

(Ord. No. 11, 2013 §2, 9-24-2013; Ord. No. 1, 2014 §2, 1-14-2014; Ord. No. 8, 2015 §1, 8-11-2015)



TOWN OF CARBONDALE
511 COLORADO AVENUE
CARBONDALE, CO 81623

Planning & Zoning Commission Memorandum

Meeting Date: 7-26-18

TITLE: Appointment for Planning and Zoning Commission

SUBMITTING DEPARTMENT: Planning Department

ATTACHMENTS: Applications: Jay Engstrom
Nick Miscione
Jade Wimberley
Robert Comey
Tristan Xavier Francis
Nicholas DiFrank

BACKGROUND

There are three vacancies for regular seats on the Planning & Zoning Commission:

Jay Engstrom and Nick Miscione, who are currently the first and second alternates respectively have submitted an application to be elevated to the regular seats.

In addition, applications have been submitted from Jade Wimberley, Robert Comey, Tristan Xavier Francis and Nicholas DiFrank for an appointment to the Commission.

It should be noted that Yuani Ruiz and Jennifer Gee DiCuollo, whose terms expire on 8/31/18, have had the two out of town seats as allowed by the code. This would enable two members to live out of town in the future.

The Commission should interview the applicants and form a recommendation to the Board of Trustees. The Board will consider appointments at its August 14, 2018 meeting.

RECOMMENDATION

Staff recommends that the following motion be approved: **Move to appoint Jay Engstrom and Nick Miscione as regular voting members of the Planning and Zoning Commission and that three additional members be chosen, one as a regular member and two as alternates.**

Prepared By: Janet Buck, Planning Director



**Town of Carbondale
Planning and Zoning Commission
Application for Appointment**

Applicant Name: Jay Engstrom

Mailing Address: 610 Colorado Avenue, Carbondale, CO 81623

Street Address: 610 Colorado Avenue

Telephone: (970) 404 - 1144

E-mail Address: Jayeng1990@gmail.com

Reappointment

If you are seeking reappointment, it is only necessary to fill in the top portion of this application.

Please Answer the Questions Below

- 1.) The Planning and Zoning Commission requires a commitment on Thursday evenings once or twice a month. The meetings generally fall on the second and fourth Thursday of each month with a few exceptions. The Planning and Zoning Commission occasionally hosts workshops where your attendance may be required. In addition, you may need to attend Board of Trustee meetings a couple of year. Do you foresee any problems attending these meetings on a regular basis? If so, what are the potential attendance issues?
There are no foreseeable problems with attending meetings.
- 2.) Do you feel as a citizen of the community that you are able to provide objective recommendations on various land-use applications and other issues? If yes, please explain.
Yes. I have worked with Roaring Fork Engineering on projects involving Land Use, permitting processes, and public right-of-ways throughout the valley. I have experience in public access projects, utility and storm water design, and private development. I am also very passionate about the future of Carbondale and encouraging responsible development and growth.
- 3.) Do you feel you have any conflicts of interest that may arise due to your appointment to the Planning and Zoning Commission? If so, please explain.
As of this time, Roaring Fork Engineering does not have any projects within the Town of Carbondale. If any projects do arise and become a conflict of interest, I will bring them to the Commission's attention.
- 4.) What do you like best about the Town of Carbondale?
The Town of Carbondale has an incredible community and local voice, which gives the town a great foundation for the future. Carbondale as a community is very aware of growth and over-development. I would love to see the town keep growing while maintaining its unique character.
- 5.) What is one thing that would make Carbondale a better place to live?
Supply and demand has subjected Carbondale to be an expensive place to live. This is chasing away teachers, low income workers, and other individuals that are the soul of the town. By increasing housing density, regulating VRBO homes, and applying other responsible growth concepts, Carbondale could theoretically balance cost of living in town without creating sprawl.
- 6.) Please identify what you feel are some of the key issues facing the Town in the next 5-10 years,
Growth and Housing will be big topics for this whole valley. With growth comes traffic issues, parking, intersections, pedestrian and bike access, along with other capacity issues. Infrastructure issues that require upgrades, such as sanitary sewer and storm water infrastructure.

Planning and Zoning Recommendation

Date:

Selection: YES NO

Action Taken by Board of Trustees

Date:

Selection: YES NO

Term Expiration:

Approval Signature:

Date:

Updated 05-13-2011

Jay indicated that he was wanting to re-apply on 6-4-18.



Town of Carbondale
Planning and Zoning Commission
Application for Appointment

Applicant Name: NICK MISCIONE
Mailing Address: 2641 DOLORES WAY, CARBONDALE, CO 81623
Street Address: SAME AS ABOVE
Telephone: 970-315-2371 / 415-271-3108
E-mail Address: NICK@MISCIONEDESIGN.COM

Reappointment

If you are seeking reappointment, it is only necessary to fill in the top portion of this application.

Please Answer the Questions Below

- 1.) The Planning and Zoning Commission requires a commitment on Thursday evenings once or twice a month. The meetings generally fall on the second and fourth Thursday of each month with a few exceptions. The Planning and Zoning Commission occasionally hosts workshops where your attendance may be required. In addition, you may need to attend Board of Trustee meetings a couple of year. Do you foresee any problems attending these meetings on a regular basis? If so, what are the potential attendance issues?
I SEE NO PROBLEMS ATTENDING MEETINGS
- 2.) Do you feel as a citizen of the community that you are able to provide objective recommendations on various land-use applications and other issues? If yes, please explain.
I FEEL I'M EQUIPPED WITH A SKILLSET THAT WOULD LEND WELL TO THIS POSITION.
- 3.) Do you feel you have any conflicts of interest that may arise due to your appointment to the Planning and Zoning Commission? If so, please explain.
I HAVE NO CONFLICTS OF INTEREST I'M AWARE OF.
- 4.) What do you like best about the Town of Carbondale?
THE QUALITY OF LIFE AND THE COMMUNITY ARE MY FAVORITE ASPECTS OF CARBONDALE.
- 5.) What is one thing that would make Carbondale a better place to live?
A MORE DEDICATED APPROACH TO HISTORY PRESERVATION, ESPECIALLY THE HCC.
- 6.) Please identify what you feel are some of the key issues facing the Town in the next 5-10 years.
PARKING IN THE HCC, PRESERVING THE COMMERCIAL CORRIDOORS, PROMOTING BUSINESS IN THE PEDESTRIAN DOWNTOWN CORE.

Planning and Zoning Recommendation

Date:
Selection: YES NO

Action Taken by Board of Trustees

Date:
Selection: YES NO
Term Expiration:

Approval Signature: Date:



**Town of Carbondale
Planning and Zoning Commission
Application for Appointment**

Applicant Name: Robert Comey
Mailing Address: P.O. Box 194 - Carbondale CO 81623
Street Address: 655 Glassier Drive - Carbondale
Telephone: 970-309-5089
E-mail Address: Gymnorhinus@gmail.com

Reappointment

If you are seeking reappointment, it is only necessary to fill in the top portion of this application.

Please Answer the Questions Below

- 1.) The Planning and Zoning Commission requires a commitment on Thursday evenings once or twice a month. The meetings generally fall on the second and fourth Thursday of each month with a few exceptions. The Planning and Zoning Commission occasionally hosts workshops where your attendance may be required. In addition, you may need to attend Board of Trustee meetings a couple of year. Do you foresee any problems attending these meetings on a regular basis? If so, what are the potential attendance issues?

No conflicts are anticipated.

- 2.) Do you feel as a citizen of the community that you are able to provide objective recommendations on various land-use applications and other issues? If yes, please explain.

I do - and I shall look at all sides of applications before offering recommendations. My desire is to follow comp plan guidelines in light of the UDC and supporting plans.

- 3.) Do you feel you have any conflicts of interest that may arise due to your appointment to the Planning and Zoning Commission? If so, please explain.

None at this time, either directly or indirectly.

- 4.) What do you like best about the Town of Carbondale?

We have a heritage of civil discourse in our community, and actively encourage participatory democracy.

- 5.) What is one thing that would make Carbondale a better place to live?

We will benefit from an economic structure that secures our parks, open space and public works; fosters diversity through a broad range of housing opportunities; and incentivizes efforts to counter climate change.

- 6.) Please identify what you feel are some of the key issues facing the Town in the next 5-10 years,

- ① Under funded budgets for capital asset replacement in town departments.
- ② Housing opportunities that restrict excessively the economic mobility of families of all types and ages.
- ③ Risk of loss of de facto public park space through development.

Planning and Zoning Recommendation

Date:

Selection: YES NO

Action Taken by Board of Trustees

Date:

Selection: YES NO

Term Expiration:

A side note: This is my third application to become a P&Z commissioner.

Approval Signature:

Date:



**Town of Carbondale
Planning and Zoning Commission
Application for Appointment**

Applicant Name: Jade Wimberley

Mailing Address: 493 South 2nd Street Carbondale, CO 81623

Street Address:

Telephone: 970 759 9733

E-mail Address: jadewimberley@gmail.com

Reappointment

If you are seeking reappointment, it is only necessary to fill in the top portion of this application.

Please Answer the Questions Below

- 1.) The Planning and Zoning Commission requires a commitment on Thursday evenings once or twice a month. The meetings generally fall on the second and fourth Thursday of each month with a few exceptions. The Planning and Zoning Commission occasionally hosts workshops where your attendance may be required. In addition, you may need to attend Board of Trustee meetings a couple of year. Do you foresee any problems attending these meetings on a regular basis? If so, what are the potential attendance issues?

Perhaps 3-4 times a year due to personal
and work related travel.

- 2.) Do you feel as a citizen of the community that you are able to provide objective recommendations on various land-use applications and other issues? If yes, please explain.

Yes, I am a trained medical doctor/EMT so my life work in providing
objective recommendations with well thought out plans.

- 3.) Do you feel you have any conflicts of interest that may arise due to your appointment to the Planning and Zoning Commission? If so, please explain.

No, though I am an owner of Lux Wellness Center at
1372 Main Street so I might need to be recused with
near-by planning and zoning applications.

- 4.) What do you like best about the Town of Carbondale?

The abundance of creative, generous, hard working citizens
that make Carbondale the unique place that it is. And the trees.

- 5.) What is one thing that would make Carbondale a better place to live?

Collecting taxes and regulating (perhaps a lottery system)
for the Airbnb, Vrbo... around town inorder to collect more
taxes for the town and offer the rental market some
breathing room.

- 6.) Please identify what you feel are some of the key issues facing the Town in the next 5-10 years,

Proper well thought out building and road development
for the coming generations and bringing companies
with aligned social-economic values which can employee
50+ people

Planning and Zoning Recommendation

Date:

Selection: YES NO

Action Taken by Board of Trustees

Date:

Selection: YES NO

Term Expiration:

Approval Signature:

Date:



**Town of Carbondale
Planning and Zoning Commission
Application for Appointment**

| | |
|-------------------------|---|
| Applicant Name: | Tristan Xavier Francis |
| Mailing Address: | 1611 Defiance Dr., Carbondale, CO 81623 |
| Street Address: | 1611 Defiance Dr., Carbondale, CO 81623 |
| Telephone: | 303-513-0677 |
| E-mail Address: | tristanfrancis@landandshelter.com |

X

Reappointment

If you are seeking reappointment, it is only necessary to fill in the top portion of this application.

Please Answer the Questions Below

- 1.) The Planning and Zoning Commission requires a commitment on Thursday evenings once or twice a month. The meetings generally fall on the second and fourth Thursday of each month with a few exceptions. The Planning and Zoning Commission occasionally hosts workshops where your attendance may be required. In addition, you may need to attend Board of Trustee meetings a couple of year. Do you foresee any problems attending these meetings on a regular basis? If so, what are the potential attendance issues?
No, I have no attendance issues.
- 2.) Do you feel as a citizen of the community that you are able to provide objective recommendations on various land-use applications and other issues? If yes, please explain.
Yes, I work as an (unlicensed) architect at Land + Shelter Architecture and Planning, and work with local building and zoning codes and regulations on a daily basis. My interest in joining the P+Z comission is to develop and oversee regulations that best serve our community
- 3.) Do you feel you have any conflicts of interest that may arise due to your appointment to the Planning and Zoning Commission? If so, please explain.
No, I have no conflicts of interest.
- 4.) What do you like best about the Town of Carbondale?
The spirit of cooperation and resilience, the willingness of citizens to embrace new ideas, and the commitment to sustainable values. The propensity of everyone who lives here to help anyone they have the means to help. Also, everything else.
- 5.) What is one thing that would make Carbondale a better place to live?
Greater availability of low income and affordable housing.
- 6.) Please identify what you feel are some of the key issues facing the Town in the next 5-10 years,
Mitigating the effects of climate change on the local community and economy, and ensuring that Carbondale remains affordable and liveable in the face of rising housing prices and increased development.

Planning and Zoning Recommendation

Date:
Selection: YES NO

Action Taken by Board of Trustees

Date:
Selection: YES NO
Term Expiration: _____

Approval Signature: _____ **Date:** _____

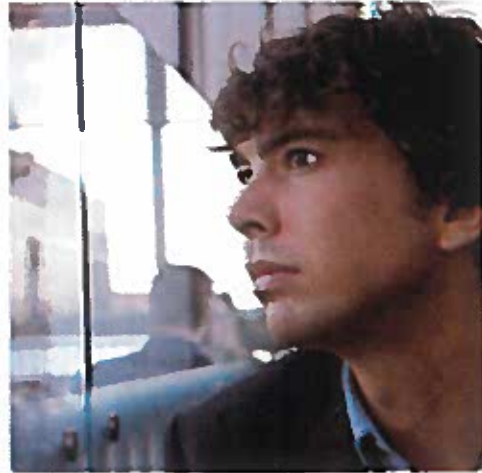
Tristan Xavier Francis

1611 Defiance Dr.
Carbondale, CO 81623
+1 303 513 0677
tristanxfrancis@hotmail.com

education

Master of architecture, emphasis in sustainable architecture, june 2016
california state polytechnic university
pomona, california

Bachelor of arts in history, may 2008
oklahoma state university
stillwater, oklahoma



experience

Land + Shelter Architecture and Planning, Designer, Carbondale, CO, february 2018 to present
Developing designs, solutions and drawings at a landscape and community-oriented studio practice.
Contact Andrea Korber, architect, +1 970 366 1582, andi@landandshelter.com

CK Architecture, senior designer, Los Angeles, CA, june 2016 to april 2017
performing a full scope of architectural services for clientele including design, production of drawings, and coordination with clients, manufacturers, and city officials.
Contact Christoph Kapeller, architect, +1 323 610 4947, ck@ck-architecture.com

TWO Architecture, design associate, tulsa, Oklahoma, full-time april 2014 to september 2014
performing a full scope of architectural services for clientele including preliminary and schematic design, production of drawings for construction, and coordination with clients and contractors.
contact Rick Winn, architect, +1 918 640 7938, rwinn@twoarchitecture.com

Cal poly graduate teaching assistant, september 2014-december 2015. los angeles, california
assisting professor with classes in the history and theory of architecture, including leading interactive discussions, and grading student work for form and content
contact Sasha Ortenberg, PhD +1 831 236 1920, aortenberg@cpp.edu

Docent, Neutra VDL studio and residences, september 2015-present. los angeles, california
performing historic preservation of and leading tours at the former office and residence of Richard Neutra, internationally-renowned modernist architect
contact Sarah Lorenzen, +1 909 869 2706 sarah@neutra-vdl.org

Cal poly fabrication shop, graduate supervisor. los angeles, california
overseeing and assisting students with project fabrication and safety using a variety of materials, machines and tools.
contact Linc Hoke, +1 909 869 2677, clhoke1@cpp.edu

competitions and research

Design Submission, Competition for New Prague Congress Center
With CK Architecture, Spring 2017

"Ethnography of Place: Placemaking Among the Placeless"
Urban research project for Environmental Design Research Association (EDRA) "Great Places" competition
With Pam Nayangcharoen, Spring 2014

other qualifications and experience: expertise in hand drawing, model making, painting, and sculpting; digital rendering, digitally enhanced fabrication, sustainable/regenerative systems, and proficiency in many design software applications such as Adobe suite, Autodesk Revit, 3D Studio MAX, Autocad, Ecotect, Rhino 3D, grasshopper, VRAY, sketchup



Town of Carbondale
Planning and Zoning Commission
Application for Appointment

Applicant Name: NICHOLAS DIFRANK
Mailing Address: 414 SOPRIS AVE. > CARBONDALE, CO 81623
Street Address: 414 SOPRIS AVE.
Telephone: 303.829.8302
E-mail Address: NDIFRANK@GMAIL.COM

Reappointment

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- I DO NOT FORESEE ANY ATTENDANCE ISSUES.
- 2.) Do you feel as a citizen of the community that you are able to provide objective recommendations on various land-use applications and other issues? If yes, please explain
- ABSOLUTELY, WITH OVER 15 YRS OF PRACTICE AS AN URBAN DESIGNER / PLANNER / LANDSCAPE ARCHITECT I AM WELL EXPERIENCED I CAN PROVIDE OBJECTIVE INPUT. — OVER —>
- 3.) Do you feel you have any conflicts of interest that may arise due to your appointment to the Planning and Zoning Commission? If so, please explain.
- I AM STILL A PRACTICING PROFESSIONAL. IN THE RARE SITUATION WHERE MY FIRM (DESIGN WORKSHOP) WOULD TO DO BUSINESS WITH THE TOWN OF CARBONDALE, I WOULD NEED TO REUSE MYSELF FROM A SELECTION PROCESS.
- 4.) What do you like best about the Town of Carbondale?
- I LOVE HOW CARBONDALE BRINGS FAMILIES, INTELLIGENT PROFESSIONALS, SMALL BUSINESSES AND LOCAL TRADITIONS ALL TOGETHER WHILE CONTINUING TO RESPECT OUR BEAUTIFUL VALLEY & SMALL TOWN CHARACTER.
- 5.) What is one thing that would make Carbondale a better place to live?
- THE CONTINUED SUPPORT OF DIVERSE PEOPLES, BUSINESSES & IDEAS COMBINED WITH THOUGHTFUL TOWN PLANNING & FUTURE LAND USES.
- 6.) Please identify what you feel are some of the key issues facing the Town in the next 5-10 years,
- MAINTAINING OUR LOCAL SMALL TOWN CHARACTER WHILE RESPECTING & PROVIDING THOUGHTFUL OPPORTUNITIES FOR NEW BUSINESSES, RESIDENTS & LAND USES — OVER —>

Planning and Zoning Recommendation

Date:
Selection: YES NO

Action Taken by Board of Trustees

Date:
Selection: YES NO
Term Expiration:

Approval Signature: Date:

3) CONTINUED:

DURING MY PROFESSIONAL CAREER I HAVE HAD THE OPPORTUNITY TO WORK AS BOTH A PRIVATE CONSULTANT AND PUBLIC REPRESENTATIVE. HAVING EXPERIENCED BOTH SIDES OF THE PLANNING & DEVELOPMENT WORLD HAS PROVIDED ME WITH VALUABLE EXPERIENCE & INSIGHTS. I ALSO HAVE MASTERS DEGREES IN URBAN DESIGN & LANDSCAPE ARCHITECTURE AND CAN PROVIDE A RESUME UPON REQUEST.

6) CONTINUED:

- ENCOURAGING A THOUGHTFUL PROCESS TO ANY DEVELOPMENT, TO ENSURE THAT IT SERVES THE VISION OF CARBONDALE AND CAN BE SUPPORTED BY EXISTING INFRASTRUCTURE AND SOCIAL SYSTEMS.
- REINFORCEMENT OF THE VISION AS DESIGNED WITHIN ~~THE~~ CARBONDALE'S UDC, WHILE RESPECTING THE CHANGING NEEDS OF OUR COMMUNITY ON ISSUES SUCH AS:
 - HOUSING
 - DENSITY
 - GENERAL DEVELOPMENT
 - ENVIRONMENTAL AWARENESS & IMPACTS



**TOWN OF CARBONDALE
511 COLORADO AVENUE
CARBONDALE, CO 81623**

Board of Trustees Agenda Memorandum

Meeting Date: 7/24/2018

TITLE: Planning Department Administrative Report

SUBMITTING DEPARTMENT: Planning Department

Thompson Park – The Planning Commission reviewed a Major Site Plan Review, Conditional Use Permit, Subdivision Conceptual Plan and amendment to the Thompson Park Annexation and Development Agreement application at its March 8, 2018, April 26, 2018 and April 26, 2018 meetings. Ultimately, the Planning Commission recommended approval of the application. The Board approved the application at its June 26, 2018 meeting. There will be 40 residential units, 33 of which are multifamily and 7 are single family dwellings. Eight of the units will be deed restricted affordable housing units.

City Market – Some initial work was done on the CRMS property order to get utilities built under the ditch before the ditches were turned on. It is anticipated that balance of the site work will commence this fall.

1st Bank Subdivision, Site Plan Review and Special Use Permit - The subdivision plat and associated documents for 1st Bank, which would be located on a portion of Lot 5 of the Carbondale Marketplace property, were recorded in May.

Stein Development – Last November, the Board approved a Major Site Plan Review to allow a mixed-use development with commercial and residential components on the vacant parcel located at the northeast corner of Highway 133 and Main Street. This was to allow 18 residential units and 2,100 sq. ft. of commercial space. The development team submitted engineering plans on May 25, 2018 for the public improvements. These have been reviewed by Town Staff and referral agencies and a few changes will be required. Once the engineering plans are finalized, a Development Improvements Agreement would need to be approved by the Board prior to construction.

Main Street Marketplace – Over the last several months, Staff has met with the development team for the 6.4-acre vacant parcel located at the northwest corner of Highway 133 and Main Street behind the 7-11 store. It is owned by Crystal River Marketplace, LLC. It is anticipated a Major Site Plan Review application for a mixed-use development will be submitted to the Town in the beginning of August.

Sopris Lodge Assisted Living Community - The Planning and Zoning Commission held a public hearing on November 16, 2017 and denied the application for Major Site Plan Review, Rezoning and Special Use Permit. The applicants were encouraged to resubmit the application with some changes to bring the development into compliance with the UDC. The application was resubmitted and was reviewed at the January 25, 2018 Planning Commission meeting. At that meeting, the Commission recommended approval of the major Site Plan Review, Rezoning, and Comprehensive Plan Amendment. The amendment is to change the designation reflected for these properties in the Future Land Use Plan from Developed Neighborhoods to Downtown North. The application was reviewed and approved by the Board at the February 27, 2018 meeting. The applicant has been working on the engineering component of this development. When this work is done, an ordinance of approval and a Development Improvements Agreement will be brought back to the Board for approval. It should be noted that ditch work was done in advance of the ditches being turned on.

RE-1 Teacher/Employee Housing – RE-1 is finishing up the teacher/employee housing project located on Third Street and Capitol. This will provide 20 housing units for district employees. Staff has been working through the approval documents to ensure the necessary inspections and easements are done for the public improvements. An open house is scheduled for August 1, 2018 at 4:00 p.m. The Board is invited to attend.

Integrated Transportation System Plan (ITSP) – RFTA – This is RFTA's long-range planning process to determine what the transportation demand will look like in 20 years, define transportation options for the region and establish a financial plan to achieve the goals. Staff continues to participate in this process.

728 Euclid Avenue Appeal – This appeal is still being processed in District Court. A Response Brief was prepared by the Town Attorney and reviewed by Planning Staff. This has been submitted to the Court.

Unified Development Code (UDC) Amendments – The groundwork for determining which amendments are necessary has been done. The Planning Commission determined that the amendments will be split into three phases. The first is a public hearing related to the child care amendments which will be held on July 26, 2018. The second phase includes the bulk of the amendments which cover the table of allowed uses, definitions, lighting, street trees, solar

access, standards and guidelines, mobile home parks, administration, and building standards. This phase will require some fairly intensive staff time to redline the UDC in preparation for public hearings. The Commission indicated they would like to see the detailed redlines prior to holding public hearings. The target timeline to get the redlines done is September/October. The third phase is the modeling to test some of the zoning parameters in the R/MD and R/HD zone districts. The modeling will be done by Clarion over a three-month timeframe.

689 Main Street Rezoning – The Planning Commission held a public hearing on February 8, 2018 to consider an application to rezone 689 Main Street from PUD to the HCC zone district. The Commission recommended approval of the application. The applicant submitted additional information related to a request for fee waivers for the historic building which is being reviewed by Town Staff. Once the review is complete, the rezoning and fee waiver application will be brought before the Board of Trustees.

379 Euclid – The Planning Commission approved an accessory dwelling unit at its April 26, 2018 meeting. The application included a number of variances due to pre-existing non-conformities on the parcel.

737 Colorado Avenue – The Planning Commission approved a subdivision exemption to divide this property into two parcels at its May 10, 2018 meeting.

165 N 8th Street - The Planning Commission approved a subdivision exemption to subdivide this parcel into two parcels at the June 14, 2018 meeting.

Zoning District Map – Planning Staff has been working with Nathan Baier on updates and improvements to the Zoning District Map over the last months. This project is nearing completion.

Red Hill Lofts – The Planning Commission approved a Special Review for the construction of a CHFA funded affordable rental housing project with 30 units to be located in two buildings located in the Kay PUD. The project is being developed by Aspen Pitkin Employee Housing, a nonprofit that is not associated with the Aspen Pitkin Housing Authority. Carbondale residents will receive priority.

Prepared By: John Leybourne and Janet Buck

JH

Town Manager