

CHAPTER 18

ZONING

ARTICLE 1

18.01 - Medical Marijuana

18.01.010 - Intent, authority and applicability.

A. Intent. It is the intent of this Article to prohibit certain land uses related to medical marijuana in the Town, and in furtherance of its intent, the Board of Trustees makes the following findings:

1. The Colorado Medical Marijuana Code, C.R.S. § 12-43.3-101, et seq., clarifies Colorado law regarding the scope and extent of Article XVIII, § 14 of the Colorado Constitution.
2. The Colorado Medical Marijuana Code specifically authorizes the governing body of a municipality to "vote to prohibit the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers' licenses."
3. The Colorado Medical Marijuana Code specifically authorizes a municipality "to prohibit the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers' licenses based on local government zoning, health, safety, and public welfare laws for the distribution of medical marijuana."
4. Based on careful consideration of the Colorado Medical Marijuana Code, Article XVIII, § 14 of the Colorado Constitution, and the potential secondary effects of the cultivation and dispensing of medical marijuana, and the retail sale, distribution, and manufacturing of medical marijuana-infused products, such land uses have an adverse effect on the health, safety and welfare of the Town and its inhabitants.

B. Authority. The Town's authority to adopt this Section is found in: the Colorado Medical Marijuana Code, C.R.S. § 12-43.3-101, et seq.; the Local Government Land Use Control Enabling Act, C.R.S. 29-20-101, et seq.; C.R.S. 31-23-101, et seq. (municipal zoning powers); C.R.S. §§ 31-15-103, 31-15-401 (municipal police powers); and C.R.S. § 31-15-501 (municipal authority to regulate businesses).

C. Applicability. This Article shall apply to all property within the Town.

18.01.020 - Definitions.

For purposes of this Article, the following terms shall have the following meanings:

MEDICAL MARIJUANA means marijuana that is grown and sold for a purpose authorized by Article XVIII, § 14 of the Colorado Constitution.

MEDICAL MARIJUANA CENTER means a person licensed to operate a business as described in the Colorado Medical Marijuana Code that sells medical marijuana and medical marijuana-infused products to registered patients or primary caregivers as defined in Article XVIII, § 14 of the Colorado Constitution, but is not a primary caregiver.

MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURER means a person licensed pursuant to the Colorado Medical Marijuana Code to operate a business manufacturing medical marijuana-infused products.

OPTIONAL PREMISES CULTIVATION OPERATION means a person licensed pursuant to the Colorado Medical Marijuana Code to grow and cultivate marijuana for a purpose authorized by Article XVIII, § 14 of the Colorado Constitution.

PATIENT has the meaning set forth in Article XVIII, § 14(1)(c) of the Colorado Constitution.

PRIMARY CAREGIVER has the meaning set forth in Article XVIII, §14 (1)(f) of the Colorado Constitution.

18.01.030 - Uses prohibited.

It is unlawful for any person to operate, cause to be operated or permit to be operated a medical marijuana center, an optional premises cultivation operation, or a medical marijuana-infused products manufacturing facility in the Town.

ARTICLE 2

18.02 – Retail Marijuana

The use of property as a retail marijuana cultivation facility, retail marijuana product manufacturing facility, retail marijuana testing facility or retail marijuana store as those operations are defined in Article XVIII, Section 16 of the Colorado Constitution is prohibited within the corporate limits of the Town.

ARTICLE 3

18.03 – Marijuana Clubs

18.03.010 - Definitions

MARIJUANA CLUB means:

1. A place not used for residential purposes where individuals gather to consume, grow or distribute or otherwise use marijuana, regardless of whether such place calls itself private or public or charges an admission, membership or similar fee.
2. A place used for residential purposes where individuals gather to consume, grow or distribute or otherwise use marijuana, at which an admission, membership or similar fee is charged.

3. A marijuana establishment with a valid license under Article XVIII, Section 16 of the Colorado Constitution (recreational marijuana establishments) or under Section 14 of Article 18 to the Colorado Constitution (medical marijuana establishments) and their accompanying state regulations and this Code, shall not constitute a marijuana club.

18.03.020 – Uses Prohibited.

Marijuana clubs are prohibited within the corporate limits of the Town.

ARTICLE 4

18.04 – Personal Cultivation of Marijuana

18.04.010 - Definitions.

ACCESSORY BUILDING means a detached subordinate building, the use of which is incidental to that of the main building or to the main use of the land and which is located on the same lot with the main building or use.

PERSONAL CULTIVATION OF MARIJUANA means the possession, cultivation, or processing of marijuana plants, including the extraction of THC or other cannabinoids, as a patient or caregiver pursuant to Article XVIII, Section 14 of the Colorado Constitution or for personal use pursuant to Article XVIII, Section 16 of the Colorado Constitution.

PRIMARY RESIDENCE means the place that a person, by custom or practice, makes his or her principle domicile and address and to which the person intends to return following any temporary absence, such as a vacation. Residence is evidenced by actual daily physical presence, use and occupancy, of the primary residence and the use of the residential address for domestic purposes, such as, but not limited to, slumber, preparation of and partaking of meals, regular mail delivery, vehicle and voter registration, or credit, water and utility billing. A person shall have only one primary residence. A primary residence shall not include accessory buildings.

SECURED AREA means an area within the primary residence accessible only to the patient, primary caregiver, or person over the age of twenty-one years of age. Secured areas shall be locked or partitioned off to prevent access by children, visitors, casual passersby, vandals or anyone not licensed and authorized to possess marijuana. Secured areas shall not exceed 150 square feet for a single-family dwelling or 100 square feet for all other dwelling units.

18.04.020 - Cultivation of marijuana.

- A. The personal cultivation of marijuana shall only occur within a secured area within the primary residence of the patient, caregiver or person over twenty-one years of age on a lot or parcel, and shall not occur in any accessory structure.

- B. The personal cultivation of marijuana plants must not be perceptible from the exterior of the primary residence, including, but not limited to:
 - 1. Common visual observations, including any form of signage;
 - 2. Unusual odors, smells, fragrances, or other olfactory stimuli;
 - 3. Light pollution, glare or brightness that disturbs the repose of another; and
 - 4. Undue vehicular or foot traffic, including excess parking within the residential zone.
- C. No more than twelve (12) marijuana plants, with half or fewer being mature, flowering plants can be grown in a single dwelling unit, regardless of the number of patients, caregivers or persons over the age of twenty-one years, or any combination thereof, that reside in the dwelling unit.
- D. The personal cultivation of marijuana plants shall meet the requirements of all adopted Town building and life/safety codes, as the same may be amended from time to time. Any cultivation within one primary residence with more than six (6) plants at any given time must have an electrical inspection in accordance with the applicable electric codes, adopted by the Town.
- E. The personal cultivation of marijuana plants shall meet the requirements of all adopted water and sewer regulations promulgated by the Town.
- F. Chemicals or growing supplies shall be stored in a secured area that is well-ventilated.
- G. The personal cultivation of marijuana plants shall not occur in any non-residential building or structure within the Town.
- H. In no instance shall personal cultivation of marijuana qualify as a home business.

18.05 – Camping

18.050.010

The provisions of this Chapter shall apply throughout the town, except that licensed campgrounds approved by the town and operating in compliance with this Code shall be exempt from this Chapter.

18.05.020 - Definitions.

“Camping” means to reside or dwell temporarily or permanently in a place with or without shelter, but does not include napping or sleeping during the day or picnicking. The term "shelter" includes, without limitation, any tent, tarpaulin, lean-to, sleeping bag, bedroll, blankets, vehicles, or any form of cover or protection from the elements other than clothing.

"Reside or dwell" means to conduct daily life activities, including without limitation, eating, sleeping, bathing, urinating, defecating, or storing personal possessions.

18.05.030 – Camping.

Except as permitted pursuant to Section 18.05.101, it shall be unlawful for any person to camp in the town in any park, upon any public street or thoroughfare, upon any public property, or on privately-owned property, or to set up a tent, shack or any other shelter upon such property for such purpose within the town; provided that camping on privately-owned property upon which is located a residential structure for no more than two nights in any thirty-day period is permitted if persons engaged in the camping have 24-hour access to the residential structure for daily life activities, including without limitation, eating, sleeping, bathing, urinating, defecating, and storing personal possessions