



## **PC BOARD MEETING AGENDA**

**Thursday, March 7, 2024, at 7:00 P.M.**

**Held at the Carsten Board Room at 224 First Street**

### **CALL TO ORDER**

### **ROLL CALL**

### **AGENDA APPROVAL / AMEMDMENTS**

*Motion to approve agenda as is or approve agenda with amendment(s).*

### **CONSENT AGENDA**

*The Consent Agenda is a group of routine matters to be acted on with a single motion and vote. The Commissioners or staff may request an item be removed from the Consent Agenda and placed under New Business for discussion.*

1. Minutes – October 5, 2023 Planning Commission Board Meeting

### **PUBLIC COMMENT\***

*Members of the audience are invited to speak at the Commissioner's meeting. Public Comment is reserved for citizen comments on items not contained on the printed agenda. Citizen comments are limited to two (2) minutes per speaker. When several people wish to speak on the same position on a given item, they are requested to select a spokesperson to state that position.*

### **PUBLIC HEARING**

2. Zoning Code Update 2024 – Vince Harris, Planning Director for Baseline Corporation

- Draft Ordinance No. (TBD), An Ordinance Amending Chapter VII of the Eaton Municipal Code Concerning Planning and Zoning Regulations and Section IV of Chapter X Concerning Marijuana Regulations

### **ADJOURN**

*\* If you have public comment but are not comfortable attending in person, please send the comments to [wesley@eatonco.org](mailto:wesley@eatonco.org) by noon on the day of the meeting, and the comment will be read into the record or otherwise shared with the Board during the meeting.*

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#### **AMERICANS WITH DISABILITIES ACT NOTICE**

In accordance with the Americans with Disabilities Act, persons who need accommodation in order to attend or participate in this meeting should contact Town Hall at (970) 454 - 3338 within 48 hours prior to the meeting in order to request such assistance.

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## **EXHIBIT A**

### **RULES FOR THE HEARING**

- A. All questions and comments by applicant(s), staff, or the public are to be directed to the governing body.
- B. The Chairperson will ask each member of the governing body to disclose any conflicts requiring recusal, or the specific substance of any ex-parte communications made by them.
- C. No applicant(s), staff member, or the public will be subject to cross examination except by the governing body.
- D. Public comments shall be taken at the hearing and are limited to two (2) minutes per individual. Any unused time may not be given to another.
- E. Disruptive behavior will not be tolerated.

### **PUBLIC HEARING PROCEDURE**

- 1. Open public hearing.
- 2. Receive information from staff.
- 3. Receive information from applicant.
- 4. Receive information from the public.
  - a. Ask to hear from anyone who supports the matter.
  - b. Ask to hear from anyone who opposes the matter.
- 5. Receive rebuttal from applicant. (*If any.*)
- 6. Additional questions from the Board, if any. (*Board may ask questions at any time until the hearing is closed.*)
- 7. Close the public hearing.
- 8. Discussion and deliberation among Board.
- 9. The Board will decide and make a motion.

#### **Proposed Motions:**

##### **For Approval:**

I move to approve \_\_\_\_\_.

##### **For Approval with Conditions:**

I move to approve \_\_\_\_\_ with the following conditions: \_\_\_\_\_.

##### **For Denial:**

I move to deny approval of \_\_\_\_\_.



**TOWN PLANNING COMMISSION  
BOARD MEETING  
224 First Street, Eaton, CO  
Thursday, October 5, 2023, 7:00 P.M.**

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**MINUTES**

**CALL TO ORDER**

Chairperson Winter called the meeting to order at 7:00 p.m.

**ROLL CALL**

COMMISSIONERS PRESENT                      Karla Winter, Chairperson    Jason Radke    Bond Baiamonte  
COMMISSIONERS ABSENT                      Brad James      Glenn Babcock  
STAFF PRESENT: Greg Brinck, Assistant Town Administrator, Lauren Richardson, Baseline Planner Associate and Vince Harris, Baseline Planning Director

**CONSENT AGENDA**

**1. Minutes – July 6, 2023, PC Regular Meeting**

*Commissioner Baiamonte moved to approve the Minutes as written.*  
Commissioner Radke seconded, and the motion passed 3-0.

**PUBLIC HEARING (See exhibit A)**

**2. Eaton Plaza Schematic Plan PUD**

Vince Harris, Baseline Planning Director stated that the applicant and owner is the Weld County School District RE-2 which is being discussed in the Eaton Plaza Schematic Plan PUD. The property is zoned as a R-2 Lower Density Residential District intended for single-family detached residential units and two-family (duplex) residences with a maximum gross density of six (6) units per acre. Recently, the Town Board directed planning, to include the vacant land site in the Mainstreet Revitalization Plan. This Schematic Plan PUD is to change the zoning to a mixed-use development of residential and commercial. There would be commercials on the ground level and condos/townhomes or apartments on the upper floors. A PUD is considered a contract zoning development, putting forth written expectations for the property standards, uses, setbacks and development requirements. At a later phase, once the property is sold and the developer has created a Final Development Plan, the plan will be presented at public hearings for the Planning Commission Board (PCB) and Board of Trustees (BOT) for review. This overall process, ultimately, if PCB recommends this change to the BOT, and if the BOT approves the change, the zoning map for this property would change from R-2 to PUD.

Lauren Richardson, Baseline Planning Associate, presented a slide show of the property and surrounding properties with details of the zoning and land uses. The purpose and intent is to change the zoning from R-2 to multi-mixed residential and commercial to reflect the vision of the Eaton Comprehensive Plan, Downtown Revitalization Plan as amended, along with standards for future developers. Staff recommends approval of the proposed Schematic PUD Plan.

*Chairperson Winter opened the public hearing and public comment at 7:10 p.m.*

Will Sander's comment was about high density in a small area for multi-family units and traffic study and underground parking and senior housing is needed close to amenities.

Lori Sander's comment was about public review of architectural plan and open bid process for whole development.

Eric Holt's comment was about the parking situation.

Melissa Jacobson's comment was about demographic being appeased and diagonal vs parallel parking.

Verniece Thomas's comment was about the traffic study affecting the Fire Station, the need for a stoplight on Cheyenne Ave and why now a PUD, why not after a developer is interested and is water provided.

Lauren spoke to the public about the comments; first phase of PUD to have guidance for any future developer; multi-units are limited.

Vince spoke to the public comments: until there is a developer ready to put together all the plans including parking, architecture and engineering, it is difficult to know what size or how many units; parking will depend on the type of uses that are developed; there is a ratio of parking for the number of units; demographics will be up to the developer; in terms of access onto Collins St., there would not be any access except for the intersections of Maple and Cheyenne; the developer will have to provide a traffic study; there will be architecture review to be sure standards are met; it is typical to rezone an area before any purchaser/developer has inquired about the property; street parking is public parking and not a part of the ratio for the units; cost for underground parking would be 30 times more expensive; developer has to bring the water shares.

## **2. Eaton Plaza Schematic Plan PUD Continued**

Chairperson Winter requested that Lauren read through the written restrictions for all planning uses for each section beginning with the statement of intent. Lauren read the restrictions.

*Chairperson Winter closed the public hearing and public comment at 8:08 p.m.*

*Commissioner Radke moved to approve the recommendation to the Town Board the Schematic Plan of the Eaton Plaza PUD with a condition for required usage of garage units to be used as garage units, and not as storage.*

Commissioner Baiamonte seconded, and the motion passed 3-0.

## **NEW BUSINESS**

### **3. Parks Master Plan Discussion**

Greg Brinck, Assistant Town Administrator thanked the community for attending the PC Board meeting and sharing their concerns about the PUD rezone and when this moves forward, there will be the same public notices given, and the opportunity for the community to share their opinions.

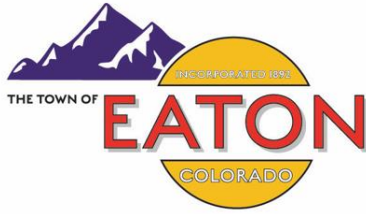
Greg stated that the Town has kicked off the Parks Master Plan for the parks process and has contracted with Baseline for planning. The groundwork has been done by staff and is now moving into the community input phase. There will be an open house next Tuesday, October 10<sup>th</sup> from 4:00 to 7:30 p.m. to drop in and give your input but if you cannot attend, there will also be flyers in with your utility billing that has a QR code to complete the survey and submit. The PC Board is invited to attend.

Vince with Baseline stated that there has already been 65 people that have completed the survey before this meeting.

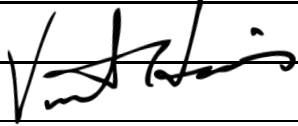
## **ADJOURN**

*Chairperson Winter moved to adjourn at 8:22 p.m.*

*Margaret Jane Winter, Town Clerk*



## Eaton Town Board Agenda Item

<b>TO: Planning and Zoning Commission</b>	
<b>FROM: Vince Harris, Avi Rocklin, Wes LaVanchy &amp; Greg Brinck</b>	
<b>DATE of MEETING: March 7, 2024</b>	
<b>TITLE/SUBJECT: Zoning Code Update 2024</b>	

### **DESCRIPTION**

During 2023 staff reviewed portions of the Eaton Zoning Code and staff updated and discussed with the Planning & Zoning Commission along with the Town Board in a joint study session to on January 11, 2024 and discussed the proposed amendments and changes at that time. Consensus or direction was provided at the study session on a variety of items summarized below. Staff has worked diligently since the study session to update the sections discussed, making sure references are accurate, and agreed upon consensus items were incorporated.

**BACKGROUND/HISTORY:** The existing Planning & Zoning Regulations in the Eaton Municipal Code was last significantly updated in the year 2000. Simple amendments have been approved since 2000, but the existing Code needs updates and overall changes to better regulate uses in the Town as well new typical planning, zoning, and subdivision updates. We suggest that these proposed amendments be the first wave of changes, and in the future months and couple of years we can provide some more updates to get these regulations even more *'state of the art'* in today's planning, zoning and engineering world.

At the January 11 study session we also discussed the item/issue related to Short-Term Rental (STR) units and Accessory Dwelling Units (ADU), and these two topics will be brought back at a later date this year (2024) to further clarify the directions and consensus on these uses in a separate zoning ordinance amendment that staff will need to work on.

The other discussed (on January 11) topics included in this ordinance amendment are listed below with short summaries, and the DRAFT ORDINANCE includes the consensus comments and directives provided by the overall group of the Planning & Zoning Commission members as well as the Town Board members.

- **Marijuana** regulatory needs are necessary related to Offences, and new wording related; and Retail and Medical Marijuana stores will continue to not be allowed in the Town; and



- **Public Hearing Notice** – amended regulations related to amended timeframes and processing needs for today’s world and technology for noticing needs; and
- **Rezoning Procedure** section is updated and includes many process updates and clarifications not currently in the code; and
- **Site Development Plan** (SDP) process and section has been updated to best clarify process and responsibilities; and
- **Downtown Commercial District C-2 Zone District** is updated to allow better options for an accessory residential unit and adds the Drive-Thru accessory use for clarification; and
- **R-3 Medium Density Residential Zone District** – reduces the minimum lot size to 3200 square feet and minimum lot width of 35 feet; and
- **Addition of one new Residential Zone District** – the new R-EH (Residential Estate Half-acre) is an addition of a new Large Lot Residential Zone District with a minimum lot size of ½ acre (21,780 sq ft) per lot; and
- **Planned Unit Development (PUD) updates and amendments** – this is to better regulate processes and allowances proposed or included in future proposed PUD’s and provide more administrative approval options.

## **RECOMMENDATION**

Staff recommends that at the March 7, 2024 Planning & Zoning Commission meeting that you recommend APPROVAL of the attached Ordinance Amendment updating several sections in **CHAPTER VII – Planning & Zoning Regulations** as well as updates in **CHAPTER X – General Offences** all found in the Eaton Municipal Code. Such proposed amendment incorporates all discussed items and consensus provided at the January 11, 2024 combined study session.

See attached formatted Ordinance Amendment that has been created by Town Attorney (Avi Rocklin) and Town Planner (Vince Harris) and reviewed by Greg Brinck and Wes LaVanchy in their Town Adminstarator roles.

Attachment: Ordinance Amendment



223 1st St, Eaton, CO 80615



(970) 454-3338



[townofeaton.colorado.gov](http://townofeaton.colorado.gov)

**TOWN OF EATON, COLORADO  
ORDINANCE NO. \_\_**

**AN ORDINANCE AMENDING CHAPTER VII OF THE EATON MUNICIPAL CODE  
CONCERNING PLANNING AND ZONING REGULATIONS AND SECTION IV OF  
CHAPTER X CONCERNING MARIJUANA REGULATIONS**

**WHEREAS**, the Town of Eaton, Colorado (“Town”) is a municipal corporation duly organized and existing under the Constitution and laws of the State of Colorado; and

**WHEREAS**, the Town Board of Trustees (“Town Board”) is vested with authority to administer the affairs of the Town; and

**WHEREAS**, Chapter VII of the Eaton Municipal Code (“Code”) regulates planning and zoning in the Town; and

**WHEREAS**, Section IV of Chapter X of the Code regulates offenses against the person and public order, and includes Section 10-4-11 and Section 10-4-12 regulating marijuana offenses; and

**WHEREAS**, for a period of approximately two years, during numerous work sessions and meetings, the Planning and Zoning Commission and the Town Board have worked with the Town Planner, Vince Harris, of Baseline Engineering Corporation, a Colorado corporation, and with Town staff to determine appropriate amendments and modifications to Chapter VII, which would necessitate revisions to the marijuana regulations contained in Section IV of Chapter X of the Code; and

**WHEREAS**, among other modifications, the Planning and Zoning Commission and the Town Board desire the following amendments to Chapter VII of the Code: (i) add a single-family estate half-acre district to the Code; (ii) amend the administrative provisions of Chapter VII to better reflect the roles and responsibilities of Town staff, the Planning and Zoning Commission and the Town Board; (iii) consolidate and amend the public hearing notice regulations; (iv) modify the planned unit development regulations to reflect a more streamlined process; (v) add a site development plan regulation to the Code; (vi) add a Fair Housing Act reasonable accommodations standard to the Code; (vii) amend the group home regulations to conform with state law; (viii) amend the home-based day care standards to provide consistent regulations in each applicable residential district; and (ix) amend the marijuana regulations to conform with amendments to state law and make corresponding amendments to Sections 10-4-11 and 10-4-12 of Section IV of Chapter X of the Code; and

**WHEREAS**, the Town Board hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town, that it is promulgated for the preservation of the public health, welfare, peace, safety and property and that this Ordinance is in the best interests of the citizens of the Town.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN BOARD OF TRUSTEES OF THE TOWN OF EATON, COLORADO, THAT:**

**Section 1.** Section 7-2-12 is hereby added to Article I of Section II of Chapter VII of the Eaton Municipal Code to read as follows:

**Sec. 7-2-12. Fair Housing Act Reasonable Accommodations.**

- (a) **Purpose.** Pursuant to this section, the Town Administrator may grant reasonable accommodations in the application of this Section II to persons with disabilities or handicaps seeking equal access to housing under the federal Fair Housing Act, 42 U.S.C. § 3601, et seq., as amended (collectively, “FHA”).
- (b) **Applicant.** An individual with a disability or handicap, his or her representative, the owner or provider of housing for individuals with disabilities or handicaps or any other person with a valid interest may request relief from any land use regulation or procedure contained in this land use code to obtain equal access to housing. The request shall be submitted on a form provided by the Town or in another manner deemed acceptable by the Town Administrator, along with any additional information required by the Town.
- (c) **State Certification.** Unless otherwise permitted by state law or federal law, the property shall be certified by the Colorado Agency of Recovery Residences and be and remain in compliance with Section 27-80-129, C.R.S., as amended.
- (d) **Review Criteria.** Among any others deemed relevant, the Town Administrator shall consider the following criteria when reviewing a request for reasonable accommodation under the FHA, and, in the Town Administrator’s discretion, determine the weight to place on each such criteria;
  - (1) Whether the dwelling unit will at all times be used by an individual or group of individuals with a qualifying disability or handicap;
  - (2) Whether the requested accommodation is necessary to afford persons with disabilities equal opportunities to use and enjoy housing;
  - (3) Whether the requested accommodation will impose an undue financial or administrative burden on the Town or will require a fundamental alteration of the Town’s ordinances, rules, regulations, policies or practices; and
  - (4) Whether there are alternative reasonable accommodations available that would provide an equivalent level of benefit to the applicant.
- (e) **Decision.** The Town Administrator may approve, conditionally approve or deny the request in accordance with federal law.
  - (1) If the request is approved or approved with conditions, the request shall not run with the land.
  - (2) If the request is approved or approved with conditions, the property shall be used and maintained only by an individual or individuals with a disability under the FHA.
  - (3) As a condition of approval, the applicant shall provide written certification on an annual basis of the following to the Town:
    - a. The property will not be used as temporary shelter for homeless persons during the term of the reasonable accommodation;



- b. The property will not be used to provide treatment or care so as to qualify the property as a group living facility under state law;
  - c. The property will remain in compliance with all building code, fire code and health department requirements, nuisance laws and other generally applicable laws, ordinance, rules and regulations other than those that have been waived or modified as part of the approved request;
  - d. The property is designed and intended for persons with disabilities as defined by the FHA and best efforts will be utilized to ensure that all residents are persons with disabilities; and
  - e. The property will be covered by liability insurance.
- (4) If the Town Administrator denies the application, the Town Administrator shall provide written notice to the applicant containing the factual basis for the denial. Within sixty (60) days of receipt of the written notice of denial, the applicant may appeal the decision to the Town Board, who shall, as soon as reasonably practicable, hold a public hearing on the appeal, allow, among others, the applicant and Town Administrator to present evidence, and render a decision based, among any other relevant factors, on the review criteria set forth in this section.
- (f) **Termination of Reasonable Accommodation.** In the event that any condition placed upon the grant of reasonable accommodation is violated or the property is no longer used and maintained only by an individual or individuals with a disability under the FHA, the reasonable accommodation shall automatically terminate and the property shall be subject to the same land use regulations, policies, and procedures as any other similarly situated property in the Town.

**Section 2.** Subsection 7-2-13(a) of the Eaton Municipal Code is hereby repealed in full and readopted and Subsection 7-2-13(d)(6) is hereby added to the Eaton Municipal Code, both to read as follows:

**Sec. 7-2-13. Districts established.**

- (a) Districts: To carry out the purpose and provisions of the ordinance codified in this Chapter, the incorporated area of the Town is divided into the following zoning districts:
- (1) R-1 Single-Family Residential District;
  - (2) R-2 Lower Density Single-Family Residential District;
  - (3) R-3 Medium Density Single-Family Residential District;
  - (4) R-EH Single-Family Estate Half Acre Residential District;
  - (5) R-MU Residential Mixed Use;
  - (6) C-1 Neighborhood Commercial District;
  - (7) C-2 Downtown Commercial District;
  - (8) HC Highway Commercial District;
  - (9) I-1 Limited Impact Industrial District;
  - (10) I-2 Industrial and Manufacturing District; and
  - (11) A-1 Agricultural District.

...

(d) Use regulations.

...

- (6) A household living together in a dwelling unit shall consist of an individual; two (2) or more individuals related by blood, marriage or legal adoption or guardianship; or a group of not more than five individuals not related by blood living together in a dwelling unit.

**Section 3.** Subsection 7-2-15(d) of the Eaton Municipal Code is hereby repealed in full and readopted to read as follows:

**Sec. 7-2-15. District Boundaries.**

...

(d) Minimum size of districts:

- (1) R-1 Single-Family Residential District = 45,000 sq. ft.
- (2) R-2 Lower Density Residential District = 37,500 sq. ft.
- (3) R-3 Medium Density Residential District = 30,000 sq. ft.
- (4) R-EH Single-Family Estate Half Acre Residential District = 87,120 sq. ft.
- (5) R-MU Residential Mixed Use = 30,000 sq. ft.
- (6) C-1 Neighborhood Commercial Zone District = no minimum.
- (7) C-2 Downtown Commercial District = no minimum.
- (8) HC Highway Commercial District = no minimum.
- (9) I-1 Light Industrial District = no minimum.
- (10) I-2 Industrial and Manufacturing District = no minimum.
- (11) A-1 Agriculture District = no minimum.

**Section 4.** Section 7-2-16 of the Eaton Municipal Code is hereby repealed in full and readopted to read as follows:

**Sec. 7-2-16. Listing of permitted uses.**

- (a) No use shall be allowed in any zoning district unless it is enumerated as an allowed principal use or accessory use in the particular zoning district. Designations in lists of uses shall be determined as follows. Permitted principal uses are uses by right and are permitted anywhere within the zoning districts indicated. Permitted principal uses require a building permit. Uses indicated as accessory uses are permitted only if they meet specific criteria contained in this Section II and can demonstrate that they are clearly accessory to the principal use. A special review use may be allowed in the district indicated if it can be demonstrated that the location and the site proposed for the use is appropriate and facilitates the use in a manner which supports the purposes of the zoning district and is compatible with adjacent properties and uses. Special review uses require the issuance of a special use permit after public hearings have taken place before the Planning

Commission and the Town Board. Uses not listed as permitted principal or permitted accessory uses require determination by the Town Administrator. The Town Administrator will determine if a principal use or permitted use not listed in Sections 7-2-17 - 7-2-26 is similar in character and impact to those listed. If it is determined by the Town Administrator to be a substantially different use, then it will be considered a special review use. Decisions of the Town Administrator may be appealed to the Town Board.

- (b) Notwithstanding any other provision in this Section II, group homes as defined in and in compliance with Section 31-23-303, C.R.S., as amended, are permitted within any residential district in the Town.

**Section 5.** Subsections 7-2-17(c)(2)f.1.-4. of the Eaton Municipal Code are hereby repealed.

**Section 6.** Subsection 7-2-17(c)(3)b. of the Eaton Municipal Code is hereby repealed and the subsequent subsection (3)c. shall be re-lettered to be subsection (3)b. to provide sequential lettering.

**Section 7.** Subsection 7-2-17(e)(3) of the Eaton Municipal Code is hereby repealed and the subsequent subsection (e)(4) shall be numbered to be subsection (e)(3) to provide sequential numbering.

**Section 8.** Subsection 7-2-18(c)(1)b. of the Eaton Municipal Code is hereby repealed and the subsequent subsection (c)(1)c. shall be re-lettered to be subsection (c)(1)b. to provide sequential lettering.

**Section 9.** Subsection 7-2-18(c)(2)e. of the Eaton Municipal Code is hereby repealed in full and readopted to read as follows:

**Sec. 7-2-18. R-2 Lower Density Residential District.**

...

- (c) Use regulations.

...

- (2) Permitted accessory uses:

- e. Home-based day care. The number of children cared for at the dwelling unit at any one (1) time shall be limited to the lawful number permitted by the rules and regulations for day care homes then in effect and issued by the Department of Social Services of the State. The home occupation of child care shall not be limited to thirty-five percent (35%) of the finished living area.

**Section 10.** Subsection 7-2-18(c)(3)b. of the Eaton Municipal Code is hereby repealed and the subsequent subsection (c)(3)c. shall be re-lettered to be subsection (c)(3)b. to provide sequential lettering.

**Section 11.** Subsection 7-2-18(e)(4) of the Eaton Municipal Code is hereby repealed.

**Section 12.** Subsections 7-2-19(c)(2)c. and 7-2-19(d) of the Eaton Municipal Code are hereby repealed in full and readopted to read as follows:

**Sec. 7-2-19. R-3 Medium Density.**

...

(c) Use regulations.

(2) Permitted accessory uses.

...

c. Home-based day care. The number of children cared for at the dwelling unit at any one (1) time shall be limited to the lawful number permitted by the rules and regulations for day care homes then in effect and issued by the Department of Social Services of the State. The home occupation of child care shall not be limited to thirty-five percent (35%) of the finished living area.

...

(d) Dimensional requirements.

(1) Minimum lot size: 3,200 square feet.

(2) Minimum lot area per dwelling unit: 1,500 square feet.

(3) Minimum livable open space: 15% of lot area.

(4) Minimum lot width: 35 feet.

(5) Maximum building height: 30 feet.

(6) Front setback: 10 feet.

(7) Side yard setbacks: 5 feet.

(8) Rear lot setback: 10 feet.

(9) Garage setback: 18 feet from street and 3 feet from alley (attached or detached).

**Section 13.** Subsection 7-2-19(c)(2)e. of the Eaton Municipal Code is hereby re-lettered to be Subsection 7-2-19(c)(2)d.

**Section 14.** Subsection 7-2-19(c)(3)a. of the Eaton Municipal Code is hereby repealed and the subsequent subsections (c)(3)b.-c. shall be re-lettered to be (c)(3)a.-b. to provide sequential lettering.

**Section 15.** Subsection 7-2-19(e)(2) of the Eaton Municipal Code is hereby repealed and the subsequent subsection (e)(3) shall be renumbered to be subsection (e)(2) to provide sequential numbering.

**Section 16.** Section 7-2-19.1 is hereby added to Article II of Section II of Chapter VII of the Eaton Municipal Code to read as follows:

**Sec. 7-2-19.1. R-EH Single-Family Estate Half Acre Residential District.**

- (a) District characteristics. The R-EH Single Family Estate Half Acre Residential District is intended for single-family detached residential units on larger lots with a maximum gross density of two (2) units per acre.
- (b) Purpose and objectives. To promote the continuance of single-family neighborhoods by:
  - (1) Protecting and enhancing the rural character of the Town while providing for low-intensity use of property with large lots and open spaces for residents.
  - (2) Allowing for limited home-based businesses to help provide homeowners with additional economic means for maintaining permanent residency.
- (c) Use regulations.
  - (1) Permitted principal uses:
    - a. Single-family detached dwelling units, which may include manufactured homes.
    - b. Public or private schools if the traffic impacts can be mitigated and adequate parking arrangements.
    - c. Well-maintained and landscaped open space or neighborhood parks.
  - (2) Permitted accessory uses:
    - a. Uses which are customarily incidental to any of the permitted principal uses and are located on the same lot or on an adjacent lot.
    - b. Parking for the principal use as specified in Section 7-2-28.
    - c. Home-based businesses which occupy less than thirty-five percent (35%) of the finished living area on the lot and have no exterior indication of nonresidential activity, except for parking as allowed in Section 7-2-28, and no unacceptable adverse impacts on neighboring uses. The business owner or operator must reside and maintain primary residency within the principal single-family dwelling unit on the lot.
    - d. Private garages for storage of vehicles and recreational activities.
    - e. Home-based day care. The number of children cared for at the dwelling unit at any one (1) time shall be limited to the lawful number permitted by the rules and regulations for day care homes then in effect and issued by the Department of Social Services of the State. The home occupation of child care shall not be limited to thirty-five percent (35%) of the finished living area.
  - (3) Special review uses:
    - a. Public buildings, community activity buildings, civic facilities, schools and churches.
    - b. Public utilities to serve the area in which they are located if no nonresidential location exists and they are designed to be unobtrusive and blend in with the surrounding area.
- (d) Dimensional requirements.
  - (1) Minimum lot size: 21,780 square feet.

- (2) Minimum livable open space: 40% of lot area.
  - (3) Minimum Lot Width: 100 feet.
  - (4) Maximum building height: 35 feet for primary structure and 25 feet for accessory structure.
  - (5) Front setback: 40 feet for primary structure and accessory structure.
  - (6) Side yard setbacks: 10 feet for primary structure and accessory structure.
  - (7) Rear lot setback: 10 feet for primary structure and accessory structure.
- (e) District development standards.
- (1) All development shall be serviced by municipal water and sanitation systems.
  - (2) Accessory uses shall represent less than thirty-five (35%) percent of the finished living area on the lot.

**Section 17.** Subsection 7-2-20(c)(3)b. of the Eaton Municipal Code is hereby repealed and the subsequent subsections (c)(3)c.-e. shall be re-lettered to be (c)(3)b.-d. to provide sequential lettering.

**Section 18.** Subsections 7-2-22(c)(1)g. and 7-2-22(e) of the Eaton Municipal Code are hereby repealed in full and readopted and Subsection 7-2-22(c)(2)d. is hereby added to the Eaton Municipal Code, all of which shall read as follows:

**Sec. 7-2-22. C-2 Downtown Commercial District.**

...

(c) Use regulations.

(1) Permitted principal uses:

...

g. Residential dwelling units incidental to the nonresidential uses, only if located above ground-floor nonresidential uses, in the back of and behind the nonresidential use or below the ground floor.

...

(2) Permitted accessory uses.

...

d. Drive-thru lane and window for customers to receive goods or foods from permitted establishments on the same subject property.

(e) District development standards.

- (1) New development shall minimize unused or unusable public or private areas in the side or rear yards.
- (2) Loading and unloading facilities shall be located in the rear of buildings and shall be screened from public view.

- (3) Buildings will be designed so as to minimize snow shedding and runoff onto pedestrian areas and public ways.
- (4) All activities within the C-2 District shall be wholly contained within buildings and private property except for access, outdoor dining areas, parking, loading and, if screened by sight-impervious fencing or plantings, storage and refuse containers.

**Section 19.** Section 7-2-38 of the Eaton Municipal Code is hereby repealed in full and readopted to read as follows:

**Sec. 7-2-38. Administration.**

- (a) Intent. This Section establishes and prescribes the basic duties and operating procedures of the administrative entities responsible for administering and enforcing this Section II.
- (b) Town Administrator. The Town Administrator shall be charged with the responsibility for interpretation of and enforcement of this Section II. The Town Administrator may delegate the administration of this Section II, or any part thereof, to duly qualified employees, consultants or agents of the Town. Interpretation of this Section II includes but is not limited to:
  - (1) Clarification of intention, classification of land uses not specified in this Section II, clarification of zoning district boundaries and delegation of procedure;
  - (2) Review all development permits to determine that the permit requirements of this Section II have been satisfied;
  - (3) Review all development permits to determine that all necessary permits have been obtained from federal, state or local governmental agencies; and
  - (4) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Chapter 7, Section V are met.
- (c) Town Engineer. When requested by the Town Administrator, the Town Engineer shall review and comment upon applications submitted and processed under this Section II. Such review may include:
  - (1) Review and approval, conditional approval or disapproval of all technical engineering standards and specifications submitted in connection with such application; and
  - (2) Review and approval, conditional approval or disapproval of all as-built diagrams and specifications of water lines, sewer lines, streets and other public improvements.
- (d) Town Planner. When requested by the Town Administrator, the Town Planner shall review and comment upon applications submitted and processed under this Section II. Such review may include:
  - (1) Review and approval, conditional approval or disapproval of all planning and zoning standards and specifications submitted in connection with such application; and
  - (2) When an administrative decision related to an application is permitted, provide a recommendation of approval, conditional approval or disapproval to the Town Administrator.
- (e) Town Clerk. The duties of the Town Clerk with respect to applications submitted and processed under this Section II are, unless otherwise directed by the Town Administrator, as follows:

- (1) Provide the appropriate forms to all applicants upon request;
  - (2) Provide for the collection and deposit of all fees submitted by applicants; and
  - (3) Provide for the notification of interested parties as required by this Section II.
- (f) Planning Commission. The duties of the Planning Commission with respect to applications submitted and processed under this Section II are as follows:
- (1) Consider requests for zoning, rezoning, special review use, change in a nonconforming use or amendments, change to the official zoning map or other action required to be reviewed pursuant to Town ordinances. An applicant requesting approval of the foregoing shall submit an application on a form supplied by the Town accompanied by any other required information required by the Town or information the applicant desires to submit. The application shall be accompanied by an application fee in the amount provided by resolution of the Town Board and set forth in the Town Fee Schedule
  - (2) After receipt by the Town of a properly completed application form and all other required information, conduct a public hearing and thereafter announce its decision within a reasonable time after the completion of the hearing. The Planning Commission may recommend approval of the requested action, with or without conditions, upon finding that all applicable criteria and requirements of these zoning regulations or other Town ordinances have been met. If the Planning Commission determines that such criteria have not been met, the Planning Commission shall recommend denial of the application.
  - (5) Submit its decision to the Town Board as a recommendation.
- (g) Town Board. The duties of the Town Board with respect to applications submitted and processed under this Section II are as follows:
- (1) Exercise all final powers and authority concerning applications submitted under this Section II.
  - (2) Conduct a public hearing de novo with respect to applications submitted under this Section II. The Town Board may approve, conditionally approve or deny all such applications.

**Section 20.** Section 7-2-45 of the Eaton Municipal Code is hereby repealed in full and readopted to read as follows:

**Sec. 7-2-45. Zoning and rezoning procedures.**

- (a) An applicant for zoning or rezoning of property shall submit an application to the Town on a form provided by Town.
- (b) The Town Administrator shall review applications for zoning or rezoning and provide a recommendation to the Planning Commission and the Town Board.
- (c) Subsequent to notice as required by the Code, the Planning Commission shall conduct a public hearing on the zone request and provide a recommendation to the Town Board. The Town Board shall thereafter conduct a public hearing to consider the zone request.
- (d) If the Town Board denies the zone request, the applicant shall not be allowed to submit to the Town another zoning request application for at least six (6) months from the date of the Town Board's final decision.

**Section 21.** Subsection 7-2-47(a)(6) of the Eaton Municipal Code is hereby repealed in full and readopted to read as follows:



**Sec. 7-2-47. Violations and penalties.**

- (a) Code enforcement.

...

- (6) Criminal actions and penalty: Whenever an alleged violation of any of the provisions of this Chapter has not been voluntarily abated within the time specified in the notice issued pursuant to this Section or, notwithstanding any other provision of this Section, at any time, even if a notice to abate has not been issued:
- a. The Town may bring a criminal action in the Municipal Court to have the violation declared as such by the Court and to have the Court impose sentence pursuant to this Section upon the owner, agent, occupant or person who caused the violation or the person who allowed the violation to continue.
  - b. Any person convicted of violating any provisions of this Chapter shall be punished as provided in Section III of Chapter I of the Code. Each person is guilty of a separate offense for each and every day during any portion of which any violation of any provision of the ordinances of the Town is committed, continued or permitted by any such person.

**Section 22.** Section 7-2-48 of the Eaton Municipal Code is hereby amended to repeal and omit the following definitions: *medical marijuana*, *medical marijuana center*, *medical marijuana-infused products manufacturer* and *optional premises cultivation operation*.

**Section 23.** Article VI of Section II of Chapter VII of the Eaton Municipal Code, including Section 7-2-49 contained therein, is hereby repealed.

**Section 24.** Section 7-2-49 is hereby added to Article V of Section II of Chapter VII of the Eaton Municipal Code to read as follows:

**Sec. 7-2-49. Public Hearing Notice.**

- (a) Intent. Public hearing notices for purposes of any public hearing required by Chapter VII of the Code, unless otherwise provided, shall be provided by mail, posting and publication as provided herein.
- (b) Content. All notices shall:
  - (1) Indicate the time and place of the public hearing;
  - (2) Describe the property involved; and
  - (3) Describe the nature and purpose of the requested action.
- (c) Mailed notice. The applicant shall, at applicant's expense, mail written notice, on a form provided or approved by the Town, by U.S. mail postmarked at least fourteen (14) days prior to the public hearing. Except as otherwise permitted by the Town Administrator, the notice shall be mailed to the owner of record of any property located within five hundred (500) feet of the property affected. The applicant shall also mail written notice to the homeowners' association in which the property is located or which is adjacent to the property and to others who have submitted a timely request to receive written notice.

- (d) Posted notice. Unless otherwise required by the Town Administrator in writing, the applicant shall post a sign, in a form approved by the Town, on the subject property in a location easily legible from an abutting street. Such sign shall be maintained continuously for at least fourteen (14) days before the public hearing and until final action is taken by the Town Board. The Town Administrator shall have discretion to modify the location of the sign and the duration of the posting of the sign.
- (e) Published notice. Unless otherwise required by the Town Administrator in writing, the applicant shall cause notice to be published in a newspaper of general circulation in the Town at least fourteen (14) days before the public hearing. In the alternative, at the Town Administrator's discretion, notice may be posted on the Town's website.
- (f) Neighborhood meetings. The Town Administrator may require that the applicant conduct a neighborhood meeting prior to scheduling a public hearing before the Planning Commission or the Town Board.
- (g) Constructive notice. Minor defects in notice shall not impair the notice or invalidate proceedings pursuant to the notice, and failure of a party to receive written notice shall not invalidate any Town action, if a reasonable attempt has been made to comply with applicable notice requirements. In any case in which a question arises at the public hearing regarding the adequacy of notice, or in which a notice deficiency is otherwise noted, consideration shall be given to the nature and extent of the deficiency, the probability of confusion resulting from the deficiency, and the type and variety of notice successfully accomplished in determining whether substantial compliance with the notice requirements has been met.
- (h) Applicant's Certification. Prior to the date of the public hearing, the applicant shall file a written certification with the Town confirming that all notices and postings which are the responsibility of the applicant have been provided in accordance with the requirements contained herein. The certification shall indicate the names and addresses of all persons sent such notification and pictures of such postings on the property.
- (i) Continuation of public hearing. A public hearing for which proper notice was given may be continued to a later date without again complying with the notice requirements contained herein provided that the continued hearing is set for a date within sixty (60) days and the date and time of the continued hearing is announced at the time of continuance.

**Section 25.** Section III of Chapter VII of the Eaton Municipal Code is hereby repealed in full and readopted to read as follows:

### **SECTION III Planned Unit Development**

#### ***Article I General Provisions***

##### **Sec. 7-3-1. Purpose of District.**

Planned Unit Developments ("PUD") are individual site-specific zone districts intended to facilitate the achievement of the purposes and objectives of the Zoning Ordinance and the Town's Comprehensive Plan, and to permit the application of new technology and greater freedom of design in land development than may be possible under the application of standard zone districts. PUDs must demonstrate that flexibility from the provisions of the existing zoning will result in higher quality development and when one (1) or more of the following purposes can be achieved:

- (1) The provision of necessary commercial, recreational and educational facilities conveniently located to housing;
- (2) The provision of well-located industrial sites involving a minimum impact on transportation facilities;
- (3) The encouragement of innovations in residential, commercial, mixed-use and limited industrial development and renewal so that the growing demands of the population may be met by greater variety in type, design and layout of buildings and by the conservation and more efficient use of open space ancillary to said buildings;
- (4) The encouragement of a more efficient use of land, public services and/or private services;
- (5) A lessening of the burden of traffic on streets and highways;
- (6) Conservation of the value of the land; or
- (7) Preservation of the site's natural characteristics.

**Sec. 7-3-2. Conditions.**

The use of the PUD provisions must be in accordance with the Town's Comprehensive Plan and is dependent upon the submission of an acceptable PUD development plan and satisfactory assurances that the PUD development plan will be carried out.

- (1) The PUD is an entire development concept and shall be reviewed as a whole.
- (2) The parcel being considered for a PUD must be a legal building lot.
- (3) Each phase within a PUD shall be so planned and so related to the existing surroundings and available facilities and services that failure to proceed to the subsequent phase will not have an adverse impact on the PUD or its surroundings at any state of the development.

**Sec. 7-3-3. Standards generally.**

The following standards and requirements shall govern the application of a Planned Unit Development.

- (1) The PUD shall be consistent with the intent of the Town's Comprehensive Plan and the policies contained therein.
- (2) No PUD shall be approved without a PUD development plan setting forth the provisions and standards for development of the PUD.
- (3) The design and construction of the PUD shall include adequate, safe and convenient arrangements for pedestrian and vehicular circulation, off-street parking and loading space.
- (4) While there may be no fixed setbacks and lot widths, the Town may require such setbacks, lot widths and space between buildings as necessary to provide adequate access and fire protection, to ensure proper ventilation, light, air and snow melt between buildings, and to ensure that the PUD is compatible with other developments in the area. As a general guide, ten (10) feet between buildings is considered minimum.
- (5) Open space for the PUD shall be planned to produce maximum usefulness to the residents or visitors of the development for purposes of recreation and scenery and to produce a feeling of

openness. All areas designated as common or public open space shall be accessible by proper physical and legal access ways.

- (6) The developer may be required to provide onsite or offsite central water and sewer facilities sourced by the Town as specified by the Planning Commission, Town Board, the Colorado Department of Public Health and Environment or the local health authorities.
- (7) Clustered housing and other buildings shall be encouraged to promote maximum open space, economy of development and variety in type, design and layout of buildings.
- (8) Maximum height of structures shall be established in the approved PUD development plan.

**Sec. 7-3-4. Relationship to subdivision regulations.**

The uniqueness of each PUD may require that specifications for the width and surfacing of streets, public ways, public utility rights-of-way, curbs and other standards may be subject to modification from the specifications established in the Town's subdivision and engineering regulations.

**Sec. 7-3-5. Evaluation criteria.**

The following criteria shall be utilized in evaluating a PUD zoning district:

- (1) Open space: Unless otherwise agreed by the Town, a minimum of twenty-five percent (25%) of the total PUD area shall be devoted to open-air recreation or other useable open space, public or otherwise; unusable open space shall not be included in the required twenty-five percent (25%).
- (2) Density: Density shall be set forth based upon consideration of the Comprehensive Plan and individual characteristics of the subject land.
- (3) Architecture: Each structure in the PUD shall be designed in such manner as to be compatible with other buildings in the area, yet to avoid uniformity and lack of variety in structural designs among the PUD.
- (4) Mixed uses: The PUD shall be designed, insofar as practicable when considering the overall size of the PUD, to provide residential, commercial, recreational and educational amenities to its residents to alleviate the necessity of increased traffic and traffic congestion. A PUD may include, subject to approval by the Town Board, any uses permitted by right, or special use in any other zone.

**Sec. 7-3-6. Consent of landowners required.**

An application for a PUD shall contain the signature of all landowners whose properties are proposed to be included within the PUD. No PUD may be approved without the written consent of all landowners.

***Article II Approval Process***

**Sec. 7-3-10. Preapplication conference with staff.**

The applicant shall have a meeting with the Town staff prior to submitting the schematic plan and PUD development plan to the Town. This meeting shall be to review the general feasibility of the proposal and may include site inspection by Town staff.

### **Sec. 7-3-11. Schematic plan.**

Prior to submitting a PUD development plan, the applicant shall submit a schematic plan to the Town for Town staff review. The schematic plan shall, at a minimum, contain the following:

- (1) Uses proposed and intensity or density of such uses;
- (3) Location of public and private open spaces;
- (4) Location of existing and proposed buildings;
- (5) Location of proposed roads and pedestrian paths; and
- (6) Existing and proposed public utilities.

### **Sec. 7-3-12. Review of and action on schematic plan.**

- (1) Criteria: The following shall be considered respect to the schematic plan:
  - a. Whether the evaluation criteria set forth in Article I of Section III are satisfied;
  - b. Whether there are special physical conditions or objectives of development which the proposal will satisfy to warrant a departure from the standard regulation requirements;
  - c. Whether the resulting development will be consistent with the Comprehensive Plan objectives;
  - d. Whether the area around the development may be planned to be in substantial harmony with the proposed PUD;
  - e. Whether the adjacent and nearby developments will not be detrimentally affected by the proposed PUD;
  - g. Whether the streets are adequate to support the anticipated traffic, and the development will not overload the streets outside the planned area; and
  - h. Whether the proposed utility and drainage facilities are adequate for population densities and type of development proposed.
- (2) Administrative review. Upon submission of a complete schematic plan, the Town Administrator shall forward the submittal to the appropriate Town departments and referral agencies for review and comment and thereafter review the submittal to determine that it complies with the criteria. Upon completion of the administrative review, the Town Administrator shall provide written notice to the applicant: (i) approving the schematic plan and directing the applicant to submit a PUD development plan, (ii) requiring revisions to the schematic plan and directing the applicant to resubmit the schematic plan for further review or (iii) denying approval of the schematic plan.
- (3) Appeal. If the Town Administrator denies approval of the schematic plan, the applicant may appeal the decision to the Town Board within sixty (60) days of receipt of the notice by providing written notice to the Town Clerk. The Town Clerk shall thereafter, as soon as reasonably practicable, set a hearing before the Town Board. The Town Board's decision shall be final and conclusive.

**Sec. 7-3-13. PUD development plan.**

- (1) Application. Upon approval of the schematic plan by the Town Administrator, the applicant may submit a PUD development plan to the Town. The PUD development plan shall include, in addition to the elements set forth in the approved schematic plan and other requirements contained in the Code or the Town's rules and regulations, unless otherwise waived or modified by the Town Administrator, the following information:
  - a. Designation of major drainageways, high water line and areas subject to flooding;
  - b. Evidence of availability of water;
  - c. Statement of maintenance proposals for common facilities;
  - d. Time schedule for development and, if development in the PUD is to be phased, the anticipated phasing plan;
  - e. An overall architectural conceptualization of the PUD and a narrative containing the type of uses and development standards anticipated in all parts of the PUD;
  - f. A transportation plan for vehicles and pedestrians (including parking areas); and
  - g. The procedure for development of the PUD property (e.g., platting, subdivision, site development plan).
- (2) Review. Upon receipt of a complete application, the Town Administrator shall review the application, confer with the applicant and the appropriate referral agencies and, if appropriate, request the applicant to make revisions to the PUD development plan. Upon satisfactory review, the Town Administrator shall make a recommendation to the Planning Commission and the Town Board in the form of: (i) approval of the PUD development plan; (ii) approval of the PUD development plan with conditions; or (iii) denial of the PUD development plan.

**Sec. 7-3-14. Planning Commission action on PUD development plan.**

Upon referral from the Town Administrator, the Planning Commission shall conduct a public hearing concerning the PUD development plan and make one (1) of the following recommendations to the Town Board:

- (1) Approve the PUD development plan and zone request as submitted, with certain conditions as stated, if any;
- (2) Deny the PUD development plan and zone request or certain portions thereof, with the reasons clearly stated; or
- (3) Table the PUD development plan and zone request to obtain additional information, require the applicant to make revisions or provide additional time for consideration.

**Sec. 7-3-15. Documentation for review of PUD development plan by Town Board.**

Subsequent to final action by the Planning Commission and prior to submittal of the application to the Town Board, the applicant shall provide the following:

- (1) The final PUD development plan document;
- (2) A written development agreement; and

- (3) Any additional information required by the Town Administrator, the Town Administrator's designee or the Planning Commission.

**Sec. 7-3-16. Town Board review and action on PUD development plan.**

Subsequent to final action by the Planning Commission and submission of the required documentation, the Town Board shall conduct a public hearing concerning the PUD development plan and take one (1) of the following actions:

- (1) Approve the PUD development plan and zone request as submitted;
- (2) Approve the PUD development plan and zone request with conditions stated in writing;
- (2) Deny the PUD development plan and zone request as submitted, or certain portions thereof, with the reasons clearly stated in writing;
- (3) Table the PUD development plan and zone request to obtain additional information, require the applicant to make revisions or provide additional time for consideration; or
- (4) Refer the PUD development plan and zone request back to the Planning Commission or Town staff, with specific instructions for additional study and recommendations.

**Sec. 7-3-17. Effect of approval.**

Upon final approval by the Town Board, the PUD development plan shall be signed by the Mayor and recorded in the office of the Weld County Clerk and Recorder. The underlying property shall thereafter be zoned PUD.

**Sec. 7-3-18. Modifications to the PUD development plan.**

- (1) The Town Administrator may authorize minor changes in locations, sightings, bulk of structures and height or character of building if required by circumstances not foreseen at the time the PUD development plan was approved.
- (2) All other changes to the PUD development plan, including the addition of any uses not set forth therein, shall be submitted to the Planning Commission and Town Board for processing as an amendment to the PUD development plan pursuant to a public hearing.

**Section 26.** Section 7-4-9, Definitions, of the Eaton Municipal Code shall be renumbered to be Section 7-4-10 of the Eaton Municipal Code (Section 7-4-10, Penalty, was previously repealed and the reference to the repealed Penalty section shall be omitted from the Eaton Municipal Code).

**Section 27.** Subsequent to the renumbering set forth in Section 23 above, Section 7-4-9 is hereby added to Section IV of Chapter VII of the Eaton Municipal Code to read as follows:

**Sec. 7-4-9. - Site Development Plan.**

- (a) Intent. A site development plan shall contain a graphic representation of all existing and proposed improvements to a site and is subject to administrative review and approval. No development, excavation, site preparation or construction activity of any kind shall occur on

property subject to the requirements contained herein until a site development plan has been approved by the Town.

- (b) Applicability. A site development plan shall be required before issuance of a building permit for the following types of development:
  - (1) Any commercial or industrial use;
  - (2) Any group living facility use;
  - (3) Any mobile home park use;
  - (4) Any multifamily dwelling use;
  - (5) Any development where more than one principal building will be sited on a single lot;
  - (6) Any development intended for occupancy by a combination of a principal residential use and one or more principal nonresidential uses;
  - (7) Any civic or institutional use, except for public lands, parks and buildings and minor public utilities; and
  - (8) Any accessory dwelling unit use.
- (c) Application. An application for a site development plan shall be submitted to the Town on a form provided by the Town.
- (d) Town review. In reviewing an application for a site development plan, the Town shall consider whether the site development plan is consistent with the existing zoning for the property and previously approved land use entitlements, complies with the applicable development and design standards set forth in the Code and mitigates or offsets adverse impacts resulting from the use to the extent reasonably feasible. The Town may, at its discretion, require the applicant to conduct a neighborhood meeting prior to the Town Administrator rendering an administrative decision with respect to the site development application.
- (e) Town approval. The Town, by and through the Town Administrator, shall provide written notice to the applicant approving, approving with conditions or denying an application for a site development plan. If the site development plan is approved with conditions, the site development plan shall not be final until all the conditions of approval are satisfied and the applicant submits a corrected site development plan. If the site development plan is denied, the Town Administrator shall provide the reasons for the denial.
- (f) Appeal. Within ten (10) days of receipt of written notice from the Town Administrator, the applicant may appeal the Town Administrator's decision to the Town Board by providing written notice to the Town Clerk. The Town Clerk shall thereafter, as soon as reasonably practicable, set a hearing before the Town Board. The Town Board's decision shall be final and conclusive. Written notice shall be deemed received upon hand delivery, delivery by electronic mail upon confirmation of receipt of the electronic mail or three (3) days after placing the written notification in the U.S. mail.
- (g) Signed. The final site development plan shall be signed by the Town Administrator and maintained by the Town Clerk at Town Hall.
- (h) Lapse of approval. Unless the deadline is extended by the Town Administrator in writing, the right to develop in accordance with an approved site development plan shall lapse and be null and



void if all development shown on the approved site development plan is not complete within three (3) years of the date the site development plan is signed by the Town Administrator

**Section 28.** Section 7-6-5 of the Eaton Municipal Code is hereby repealed in full and readopted to read as follows:

**Sec. 7-6-5. - Consideration of annexation ordinance.**

Upon submission of documentation in accordance with this Chapter and upon compliance with the notice and hearing requirements as set forth in the Colorado Municipal Annexation Act of 1965, as amended, the Town Board may consider the approval of an ordinance annexing the subject property to the Town. In the event the Town Board considers and disapproves such ordinance, no similar request may be heard for a period of six (6) months from the date of denial.

**Section 29.** Section 7-8-3 of the Eaton Municipal Code is hereby repealed in full and readopted to read as follows:

**Sec. 7-8-3. Notice, hearing and publication.**

- (a) No site specific development plan requested by a property owner to have vested property rights shall be approved until after a public hearing preceded by notice published in a newspaper of general circulation at least fourteen (14) days prior to such hearing. Such notice may, at the Town's discretion, be combined with other required notice.
- (b) The Town Board may approve, conditionally approve or deny approval of vested property rights for a site specific development plan. The Town may impose terms and conditions on the vested property rights as may reasonably be necessary to protect the public health, safety and welfare. The failure to abide by the terms and conditions, if any, will result in a forfeiture of vested property rights.

**Section 30.** Section 10-4-11 of the Eaton Municipal Code is hereby repealed in full and readopted to read as follows:

**Sec. 10-4-11. Offenses related to marijuana.**

- (a) Definitions. The following terms have the meanings set forth herein:

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

*Marijuana accessories* means any equipment, products or materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing,

analyzing, packaging, repackaging, storing, vaporizing or containing marijuana, or for ingesting, inhaling or otherwise introducing marijuana into the human body.

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

*Medical marijuana card* means a registry identification card properly and duly issued pursuant to state statute and the rules and regulations promulgated thereunder related to the use of medical marijuana.

(b) Possession of marijuana and marijuana accessories.

- (1) No person under twenty-one (21) years of age shall possess marijuana or marijuana accessories unless such person has been issued a medical marijuana card. If such person has been issued a medical marijuana card, such person shall not possess more than two (2) ounces of marijuana.
- (2) No person twenty-one (21) years of age or older shall possess more than one (1) ounce of marijuana unless such person has been issued a medical marijuana card. If such person has been issued a medical marijuana card, such person shall not possess more than two (2) ounces of marijuana.

(c) Sale and transfer of marijuana and marijuana accessories.

- (1) No person shall sell, distribute, transfer, trade, exchange or give marijuana or marijuana accessories, with or without remuneration, to a person under the age of twenty-one (21).
- (2) No person shall sell, distribute, transfer, trade or exchange marijuana or marijuana accessories, with remuneration, to a person twenty-one (21) years of age or older.
- (3) No person shall give more than one (1) ounce of marijuana to a person twenty-one (21) years of age or older.

(d) Public consumption or use of marijuana.

- (1) No person shall openly and publicly consume or use marijuana. In addition to other circumstances that may result in open and public consumption or use, a person shall be deemed to be openly and publicly consuming or using marijuana if such consumption or use is visible and identifiable at or from a public location.
- (2) No person shall consume or use marijuana in a manner that endangers others.
- (3) No person shall consume or use marijuana in a location or facility owned or operated by the Town, including but not limited to public parks, public buildings and public streets.
- (4) No person while in the passenger area of a motor vehicle shall: (1) use or consume marijuana; or (2) have in his or her possession an open marijuana container. For purposes of this Section, the terms shall have the meanings set forth in Section 42-4-1305.5, C.R.S., as amended, and the exceptions contained therein shall apply. Nothing in this Section or in any Section of the Code is intended to allow driving under the influence of marijuana or driving while impaired by marijuana or to supersede state law regarding the same, whenever enacted.

- (e) Prohibitions regarding minors on private property. No person who is in possession and control of private property shall knowingly allow any person under the age of twenty-one (21) to possess or consume marijuana on such private property unless such minor person has been issued a medical marijuana card. For purposes of this Section, *a person in possession and control of private property* shall mean the owner, tenant or designated custodian, such as a house-sitter or babysitter, of private property.
- (f) Personal cultivation of marijuana.
  - (1) No person twenty-one (21) years of age or older shall possess more than six (6) marijuana plants, only three (3) or fewer of which are mature flowering plants. The marijuana produced by such plants in excess of one (1) ounce shall be maintained on the premises where grown and shall not be sold.
  - (2) Cultivation of the marijuana plants shall be conducted in an enclosed space which shall be locked. Cultivation shall be conducted in compliance with all other relevant provisions of the Code.
  - (3) No person shall openly or publicly cultivate marijuana. In addition to other circumstances that may result in open or public cultivation, a person shall be deemed to be openly or publicly cultivating marijuana if the marijuana plants are visible and identifiable at or from a public location or cause a public nuisance.
- (g) Violations. A person who violates the provisions of this Section shall be subject to the penalties set forth in Section 1-3-1 of the Code.

**Section 31.** Section 10-4-12 of the Eaton Municipal Code is hereby repealed in full and readopted to read as follows:

**Sec. 10-4-12. Marijuana Facilities.**

- (a) Retail Marijuana. It is unlawful for any person to operate, cause to be operated or permit to be operated a retail marijuana store, retail marijuana cultivation facility, retail marijuana product manufacturing facility or retail marijuana testing facility in the Town. For purposes of this Section, the terms used herein shall have the meanings set forth in Section 16 of Article XVIII of the Colorado Constitution and the Colorado Marijuana Code, Article 10 of Title 44, C.R.S., as amended.
- (b) Medical Marijuana. It is unlawful for any person to operate, cause to be operated or permit to be operated a medical marijuana store, medical marijuana cultivation facility or medical marijuana products manufacturing facility in the Town. For purposes of this Section, the terms used herein shall have the meanings set forth in the Colorado Marijuana Code, Article 10 of Title 44, C.R.S., as amended.
- (c) Marijuana Club. It is unlawful for any person to operate, cause to be operated or permit to be operated a marijuana club in the Town. For purposes of this Section, “marijuana club” means a place not used for residential purposes wherein persons assemble to consume marijuana, regardless of whether such place is referred to as a private or public club or charges an admission or membership fee and regardless of whether the consumption of marijuana is the primary or incidental reason for the assembly.

- (d) Patients and Primary Caregivers. Nothing in this Section shall be construed to prohibit, regulate or otherwise impair the use of medical marijuana by patients or the provision of medical marijuana by primary caregivers to patients as provided in Section 14 of Article XVIII of the Colorado Constitution, state statutes and rules and regulations promulgated thereunder.
- (e) Violations. A person who violates the provisions of this Section shall be subject to the penalties set forth in Section III of Chapter I of the Code.

**Section 32. Severability.** If any section, paragraph, sentence, clause or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the constitutionality or validity of the remaining portions of this Ordinance. The Town Board hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

**Section 33. Code revisions.** Minor changes such as the format and other changes to unify the revised Code may be necessary. The Town Clerk is hereby authorized to make such changes, provided that neither the intent nor substantive content will be altered by such changes.

**Section 34. Effective Date and Publication.** This Ordinance shall be effective thirty (30) days after its publication. The Town Clerk shall certify the date of publication and such certification shall be maintained with the original of this Ordinance. The Town Clerk shall make not less than three copies of the adopted Town Code available for inspection by the public during regular business hours.

**INTRODUCED, APPROVED AND ADOPTED** by the Board of Trustees of the Town of Eaton, Colorado, this \_\_\_\_ day of \_\_\_\_\_, 2024.

**TOWN OF EATON, COLORADO**

**ATTEST:**

By: \_\_\_\_\_  
Margaret Jane Winter, Town Clerk

By: \_\_\_\_\_  
Scott E. Moser, Mayor