

CHAPTER 16

Zoning

Article I General

Sec. 16-1 Declaration of purpose

Article II Mobile Homes

Sec. 16-21 Unlawful to construct, park or install on certain lots

Sec. 16-22 Exception

Sec. 16-23 Mobile home inspection

Article III Historic Preservation Advisory Board

Sec. 16-41 Purpose

Sec. 16-42 Board established

Sec. 16-43 Criteria for designation of historic sites

Sec. 16-44 Designation of historic sites

Sec. 16-45 Limitations on resubmission and reconsideration of proposed designations

Sec. 16-46 Amendment of designation

Sec. 16-47 Notification

Sec. 16-48 Revocation of designation

Article IV Medical Marijuana

Sec. 16-61 Definitions

Sec. 16-62 Intent, authority and applicability

Sec. 16-63 Uses prohibited

Article V Marijuana Establishments

Sec. 16-81 Marijuana cultivation facilities

Sec. 16-82 Marijuana product manufacturing facilities

Sec. 16-83 Marijuana testing facilities

Sec. 16-84 Retail marijuana stores

Sec. 16-85 Compliance

ARTICLE I

General

Sec. 16-1. Declaration of purpose.

The regulations contained in this Chapter shall be held to be minimum requirements enacted to promote the health, safety and general welfare of the Town. To these ends such regulations have been prepared and are designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land and undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to conserve the value of buildings; to encourage the most appropriate use of land; and to otherwise provide for the growth of an orderly and viable community. (Ord. 215 §1, 1993)

Secs. 16-2—16-20. Reserved.

ARTICLE II

Mobile Homes

Sec. 16-21. Unlawful to construct, park or install on certain lots.

It shall be unlawful for any person to erect, construct, park or install any mobile home on any of the following described lots in the Town, except those already existing prior to passage of the ordinance codified in this Article, to wit:

- (1) Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, Block 7 Romero's Addition.
- (2) Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, Block 8 Romero's Addition.
- (3) Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, Block 9 Romero's Addition.
- (4) Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, Block 10 Romero's Addition.
- (5) Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, Block 6 Original Townsite.
- (6) Lots 1, 2, 3, 4, 5, 6, 7, Block 5 Original Townsite.
- (7) South 150 feet of the Guadalupe Martinez Tract. (Ord. 211 §1, 1990)

Sec. 16-22. Exception.

Section 16-21 above does not apply to the replacement of an existing mobile home due to the destruction of the existing mobile home by fire or act of God. The replacement must meet the Uniform Building Code. Section 16-21 above shall not apply to the replacement of an existing

mobile home with a larger mobile home. The replacement must meet the Uniform Building Code. (Ord. 211 §2, 1990)

Sec. 16-23. Mobile home inspection.

Mobile homes placed in other parts of the Town must pass inspection by the Building Inspector and meet current State Building Code. (Ord. 211 §4, 1990)

Secs. 16-24—16-40. Reserved.

ARTICLE III

Historic Preservation Advisory Board

Sec. 16-41. Purpose.

This Article promotes the public health, safety and welfare through:

(1) The protection and preservation of the historic and cultural heritage of the Town by providing for the designation of historic buildings, landmarks, sites and districts (collectively referred to hereinafter as "Historic Sites") in accordance with this Article.

(2) The enhancement of property values and the stabilization of historic neighborhoods, sides of historical events and similar locations of historic significance.

(3) The increase of economic and financial benefits as a result of the attraction of tourists and visitors to the Town.

(4) The provision of educational opportunities to increase public appreciation of the Town's unique heritage. (Ord. 238, 2007)

Sec. 16-42. Board established.

(a) The Board of Trustees hereby creates a Historic Preservation Advisory Board, to be known as the Town of Aguilar Historic Preservation Advisory Board ("Board"), which shall have principal responsibility of matters of historic preservation as set forth in Paragraph (b)(6) below.

(b) Membership:

(1) The Board shall consist of seven (7) members, all of whom shall be residents of the Town and/or the County.

(2) Appointments and terms of office:

a. Members of the Board shall be appointed by the Board of Trustees and shall serve three-year terms. The Board of Trustees shall give reasonable opportunity to interested parties to nominate individuals to serve as members of the Board. The initial terms for members shall be

two (2) members for a one-year term, two (2) members for a two-year term and three (3) members for a three-year term. Terms of members shall commence on January 1 of each year.

b. The foregoing provisions notwithstanding, any duly appointed member of the Board shall continue to serve until the member's successor has been appointed. Members may be appointed to serve successive terms without limitation. Appointments to fill vacancies on the Board shall be made by the Board of Trustees, provided, however, that prior to the appointment of Board members whose terms are ending, the Board of Trustees shall give reasonable opportunity to interested parties along with the Board to nominate individuals to serve as members of the Board. Appointments to fill vacancies shall be for the remainder of the vacant term.

c. All members of the Board shall serve without compensation except for such amounts determined appropriate by the Board of Trustees to offset expenses incurred by the Board members in the performance of their duties as Board members. All members of the Board shall serve at the pleasure of the Board of Trustees and may be removed by the Board of Trustees at any time with or without cause.

(3) Quorum and voting. A quorum for the Board shall consist of a majority of the members of the Board, excluding vacant seats. A quorum is necessary for the Board to hold a meeting or to take official action. A roll call vote shall be taken upon the request of any member. A tie vote shall be deemed denial of the motion or recommended action.

(4) Officers. The Board shall elect one (1) of its members by majority vote to serve as chairperson to preside over the Board's meetings and one (1) member to serve as secretary. The members so designated shall serve in these capacities for terms of one (1) year and may serve successive terms.

(5) Meetings. The Board shall hold at least one (1) regularly scheduled meeting per year and as often as necessary to take action on pending matters. Minutes shall be kept of all Board meetings. The Board shall comply with all requirements of the Open Meetings Law (Section 24-6-401, et seq., C.R.S.) applicable to local public bodies as defined in that Law.

(6) Powers and duties of the Board:

a. The Board shall review applications for designation of sites as being historic pursuant to this Article and make recommendations to the Board of Trustees as to whether the Board of Trustees should, by resolution or ordinance, designate the site described in the application of such designation based upon the criteria established in Subparagraph c below and subsequent amendments thereto.

b. The board shall, as needed, review the criteria for designation of historic sites set forth in Subparagraph c below and make recommendations to the Board of Trustees for amendments thereto which the Board believes appropriate or necessary.

c. Perform duties or functions as assigned by the Board of Trustees.

(7) In addition to the above duties, the Board may, at its sole discretion:

a. Advise and assist owners of historic properties on the physical and financial aspects of preservation, renovation, rehabilitation and reuse, including nomination to the Colorado and National Registers of Historic Places;

b. Develop and assist in public education programs, including but not limited to walking tours, brochures and a marker program of historic properties, lectures and conferences;

c. Conduct surveys of historic sites for the purpose of defining those of historic significance and prioritizing the importance of identified historic sites;

d. Advise the Board of Trustees on matters related to preserving the historic character of the Town; and

e. Pursue financial assistance for preservation-related programs.

(8) Board rules and procedures. The Board may establish additional rules of operation that are consistent with its duties as enumerated herein. Any changes to rules of operation shall be referred to the Board of Trustees for their approval. (Ord. 238, 2007)

Sec. 16-43. Criteria for designation of historic sites.

In order to qualify for designation as a historic site pursuant to this Article, the site must be determined to have historic significance due to one (1) or more of the following factors:

(1) Its character interests or value as part of the development, heritage or cultural characteristics of the Town, the County, the State or the Nation.

(2) Its location as a site of a significant historic event.

(3) Its identification with a person who significantly contributed to the culture and development of the Town, the County, the State or the Nation.

(4) Its exemplification of the cultural, economic, social or historic heritage of the Town, the County, the State or the Nation.

(5) Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style.

(6) Its embodiment of distinguishing characteristics of an architectural type or specimen.

(7) Its identification as the work of an architect or master builder whose individual work has influence the development of the Town, the County, the State or the Nation.

(8) Its embodiment of elements of architectural design, detail, materials or craftsmanship that represent a significant architectural innovation.

(9) Its relationship to other distinctive areas that are eligible for preservation according to a plan based on historic, cultural or architectural motif.

(10) Its unique location or singular physical characteristic representing an established and familiar visual feature of a neighborhood, community or the Town. (Ord. 238, 2007)

Sec. 16-44. Designation of historic sites.

(a) Recommendation for designation of historic sites.

(1) Pursuant to the procedures hereinafter set forth in this Section, the Board may, by written recommendation to the Board of Trustees, propose the designation as a historic site any building, landmark, site or district meeting the criteria set forth in Section 16-43 above.

(2) Each such designation recommendation shall include a description of the characteristics of the site which justify its designation and shall include a legal description of the location and boundaries of the historic site. The designation recommendation may also indicate alterations which would have a significant impact upon, or be potentially detrimental to, the historic features of the site.

(3) Any such designation shall be in the furtherance of and in conformance with the purposes and standards of this Section.

(b) Notification requirements. The site included in any such designation shall be subject to the notification requirements set forth in Subsection (g) of this Section.

(c) Procedures for designating historic sites for preservation.

(1) Applications for designation must be made to the Board. The Board may require that such application be made in such form as specified by the Board. Only the owners of one hundred percent (100%) of the historic site for which an application is submitted shall make application.

(2) Board review. The Board shall review the application for conformance with the criteria for designation established in Subparagraph c below with the purposes of this Section. The Board shall consider the application at a regularly scheduled or special meeting. The Board shall notify the Board of Trustees within seven (7) days of any decision approving or disapproving an application.

(3) Board of Trustees action. Unless an application is withdrawn by the applicant within sixty (60) days of the date on which the Board of Trustees is advised of an application, the Board of Trustees shall approve, modify and approve or disapprove the proposed designation. The Board of Trustees shall advise the Board of its decision regarding the designation. (Ord. 238, 2007)

Sec. 16-45. Limitations on resubmission and reconsideration of proposed designations.

Whenever the Board or the Board of Trustees disapproves an application for designation of a historic site, no person shall submit an application that is the same or substantially the same for at least six (6) months from the effective date of the final Town action on the original application. (Ord. 238, 2007)

Sec. 16-46. Amendment of designation.

Designation of an historic site may be amended to add features or property to the site under the procedures prescribed in Section 16-44 of above. (Ord. 238, 2007)

Sec. 16-47. Notification.

Any owner filing an application for designation of property under this Article shall, as part of the application, agree to notify the Board of the owner's intention to alter, demolish, move or remove the site subject to the application at least thirty (30) days prior to undertaking any such work. Any such owner shall be responsible for notifying any subsequent purchaser of the property of this notification requirement and the Board may revoke the designation of the site hereunder unless the subsequent purchaser agrees in writing to the provisions of this Section. (Ord. 238, 2007)

Sec. 16-48. Revocation of designation.

Upon receipt of an application from the then-current owners of a site which has been designated as historic pursuant to this Article for revocation of that designation, the Board shall advise the Board of Trustees of such application and the Board of Trustees shall remove the designation. In addition, upon learning of the alteration, demolition, movement or removal of a site which has been designated as historic pursuant to this Article, or a violation of this Article, the Board shall, following at least fifteen (15) days' written notice to the then-current owners of the site subject to the designation, conduct a hearing to determine whether it should recommend to the Board of Trustees that the historic designation of the site involved be removed. Following such hearing, the Board shall transmit its written recommendation to the Board of Trustees who shall, within sixty (60) days thereafter, determine whether to accept the recommendation and remove the designation. The Board of Trustees shall notify the Board and property owners of its decision regarding revocation of the designation. (Ord. 238, 2007)

Sec. 16-49—16-60. Reserved.

ARTICLE IV

Medical Marijuana

Sec. 16-61. Definitions.

Certain words and phrases used in this Article shall have the following meanings ascribed to them:

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, and which a municipality is authorized to prohibit as a matter of law.

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, and which a municipality is authorized to prohibit as a matter of law.

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, and which a municipality is authorized to prohibit as a matter of law.

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. (Ord. 245 §1, 2010)

Sec. 16-62. Intent, authority and applicability.

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

(1) The Colorado Medical Marijuana Code, Section 12-43.3-101 et seq., C.R.S., clarifies state 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 manufacturer's 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, 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 City and its inhabitants.

(5) Patients and primary caregivers should otherwise be afforded the protections of Article XVIII, § 14 of the Colorado Constitution and Section 25-1.5-106, C.R.S.

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

(c) Applicability. This Article shall apply to all property in the Town. (Ord. 245 §1, 2010)

Sec. 16-63. Uses prohibited.

(a) It is unlawful for any person to operate, cause to operate 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.

(b) Nothing in this Section shall be construed to prohibit, regulate or otherwise impair the protections of the use of medical marijuana by patients as provided in Article XVIII, § 14 of the Colorado Constitution, or the provisions of medical marijuana by a primary caregiver to a patient in accordance with Article XVIII, § 14 of the Colorado Constitution, the Colorado Medical Marijuana Code and rules promulgated thereunder. (Ord. 245 §1, 2010)

ARTICLE V

Marijuana Establishments

Sec. 16-81. Marijuana cultivation facilities.

The operation of marijuana cultivation facilities authorized by Article XVIII, § 16 of the Colorado Constitution is hereby prohibited within the municipal limits of the Town. (Ord. 253 §1, 2013)

Sec. 16-82. Marijuana product manufacturing facilities.

The operation of marijuana product manufacturing facilities authorized by Article XVIII, § 16 of the Colorado Constitution is hereby prohibited within the municipal limits of the Town. (Ord. 253 §1, 2013)

Sec. 16-83. Marijuana testing facilities.

The operation of marijuana testing facilities authorized by Article XVIII, § 16 of the Colorado Constitution is hereby prohibited within the municipal limits of the Town. (Ord. 253 §1, 2013)

Sec. 16-84. Retail marijuana stores.

The operation of retail marijuana stores authorized by Article XVIII, §16 of the Colorado Constitution is hereby prohibited within the municipal limits of the Town. (Ord. 253 §1, 2013)

Sec. 16-85. Compliance.

In compliance with Article XVIII, § 16(5)(e) of the Colorado Constitution, the Board of Trustees of the Town is hereby designated as the entity within the Town responsible for processing applications submitted for a license to operate a marijuana establishment within the boundaries of the Town and for the issuance of such licenses should the issuance by the locality become necessary because of a failure by the Colorado Department of Revenue to adopt regulations or to process and issue licenses pursuant to Article XVIII, § 16(5)(a) except that no licenses shall be processed or issued in violation of this Ordinance. (Ord. 253 §1, 2013; Ord. 254 §1, 2013)