

**TOWN OF DE BEQUE, COLORADO  
ORDINANCE NO. 479  
SERIES 2016**

**AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF  
DE BEQUE, COLORADO, APPROVING EAST MESA ENTERPRISES,  
LLC'S APPLICATION FOR PUD ZONING TEXT AMENDMENT.**

**WHEREAS**, East Mesa Enterprise, LLC (“Applicant”) submitted an application for a PUD text amendment (“Application”) regarding the property known as the River Bridge Industrial Park Planned Unit Development (“Riverbridge”) and more fully described on Exhibit A attached hereto (“Riverbridge”); and

**WHEREAS**, Riverbridge was annexed to the Town in 2006 and is subject to an Annexation and Development Agreement and the Riverbridge PUD Control Plan (“Control Plan”); and

**WHEREAS**, Riverbridge was zoned as PUD-Industrial upon annexation; and

**WHEREAS**, the Control Plan establishes the uses permitted within Riverbridge whether as a use by right or with special review; and

**WHEREAS**, five types of Retail Marijuana Establishments, as defined in Section 14.01.180 of the Town Code, are allowed within the Town in certain districts as special review uses; and

**WHEREAS**, the Control Plan does not include any of the five Retail Marijuana Establishments in its list of uses; and

**WHEREAS**, in the Application, Applicant seeks to amend the Control Plan to include the five Retail Marijuana Establishments as uses by right in Riverbridge; and

**WHEREAS**, Applicant also wishes to amend the Control Plan to allow, as a special review use, a single business owner- or employee-occupied residential unit on each lot within Riverbridge; and

**WHEREAS**, on July 11, 2016, the Town Planning Commission (“Commission”) held a duly-noticed public meeting to consider the Application and ultimately recommended conditional approval of the Application; and

**WHEREAS**, the Town Board of Trustees (“Board”) held a duly-noticed public hearing on August 15, 2016, to consider the Application; and

**WHEREAS**, at the public hearing the Board considered evidence presented by the Applicant and other interested parties, comments of review agencies, recommendations of the Commission, Town Clerk, and Town consultants, and comments from the public; and

**WHEREAS**, the Board also considered the following evaluation criteria regarding the changes sought in the Application:

1. Whether the Application is consistent with the efficient development and preservation of the entire PUD;
2. Whether or not the Application will affect in a substantially adverse manner either the enjoyment of land abutting upon or across the street from the PUD or the public interest; and
3. Whether the Application is being sought solely for a special benefit upon any person.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF DE BEQUE AS FOLLOWS:**

1. **Recitals.** The foregoing recitals are hereby adopted as findings and determinations of the Commission.

2. **Approval and Conditions.** Based on the evidence and comments presented, and based on the recommendations of Town staff, the Commission recommends that the Town Board approve the Application, subject to the following conditions:

- a. Deny Applicant’s request to add “Business Owner or Employee Occupied Residential Unit” as a use within the PUD;
- b. Revise the existing special review use of “Dwellings in the Same Building as a Business” to read “Dwellings **on** the Same **Property** as a Business” and include a provision in the Control Plan requiring that any such uses not be separated from the real property through subdivision, condominiumization, or any other process that creates a separate property interest;
- c. Add Retail Marijuana Stores, Retail Marijuana Cultivation Facilities, Retail Marijuana Cultivation Facilities – Limited, Retail Marijuana Product Manufacturing Facilities, and Retail Marijuana Testing Facilities as special review uses to the schedule of uses included in the Control Plan; provided, however, these uses shall become permitted uses if and when the Board of Trustees approves an amendment to the design criteria within the PUD addressing applicable requirements for such uses, which amendment may be approved by Resolution at a duly-noticed public meeting without the need for further amendment of this Ordinance;
- d. Amend the Control Plan to include the following language: “Uses in the Riverbridge Industrial Park PUD shall utilize odor control technology to mitigate, to the Town staff’s satisfaction, marijuana smells associated with the use of the property when smelled at any boundary of the lot on which retail marijuana activities occur;”

- e. Amend Section II(G), General Regulations: Screening and Outside Storage, of the Control Plan to eliminate the following language: “Perimeter fencing that would enclose buildings and parking areas as well as storage areas are prohibited;”
- f. All representations made in the Applicant’s written materials or verbally as reflected in the minutes and/or recordings of the public meetings or hearings where the Application was presented to or considered by the Commission and/or Board of Trustees are considered part of the Application and binding on the Applicant; and
- g. The Applicant shall pay all required fees including, but not limited to, those of the town attorney and other consultants retained by the Town of DeBeque to review and process the Application.

3. **Effective Date.** This Ordinance shall become effective thirty (30) days after publication pursuant to C.R.S. § 31-16-105.

4. **Recordation.** Within fourteen (14) days of the effective date of this Ordinance, the Town Clerk shall record this Ordinance in the Mesa County real property records.

**THIS ORDINANCE NO. 479** was adopted by the Town of De Beque Board of Trustees by a vote of \_\_\_ to \_\_\_ following a duly-noticed public hearing held on August 15, 2016.

TOWN OF DE BEQUE BOARD OF TRUSTEES

By: \_\_\_\_\_  
Forest Matis, Mayor

ATTEST:

\_\_\_\_\_  
Shirley J. Nichols, Town Clerk

**EXHIBIT A**

A parcel of land in Section 23, Township 8 South, Range 97 West of the 6th Principal Meridian, being more particularly described as follows:  
Commencing at the N ¼ Corner of said Section 23 and considering the West line of the NW1/4 of said Section 23 to bear North 00-24-15 West and all bearings contained herein to be relative thereto;  
Thence along the East line of the NW1/4 of said Section 23 to a point on the Southerly right-of-way line of U.S. Highway 6, being the TRUE POINT OF BEGINNING;  
Thence along said right-of-way of the following three (3) courses:  
South 55-21-26 West 963.15 feet;  
Thence North 34-34-34 West 25.00 feet;  
Thence 706.34 feet along the arc of a curve to the left, with a radius of 1860.00 feet; whose chord bears South 44-26-41 West 702.10 feet;  
Thence South 00-37-32 East 1252.73 feet to a point on the Northerly right-of-way of the Union Pacific Railroad;  
Thence along said right-of-way the following five (5) courses;  
North 54-42-49 East 1237.11 feet;  
Thence 396.43 feet along the arc of a curve to the left, with a radius of 1710.00 feet and whose chord bears North 45-04-20 East 395.54 feet;  
Thence South 00-50-50 East 58.66 feet;  
Thence 482.62 feet along the arc of a curve to the left with a radius of 1750.00 feet, and whose chord bears North 34-57-05 East 481.09 feet;  
Thence North 27-03-03 East 481.09 feet;  
Thence North 00-51-03 West 818.75 feet to a point on the Southerly right-of-way of U.S. Highway 60;  
Thence along said right-of-way South 55-21-26 West 673.87 feet to the POINT OF BEGINNING,

Also known as River Bridge Annexation to the Town of Debeque recorded February 7, 2008 in Book 4598 at Page 872 as Reception No. 2423026.

NOTE: The above mentioned legal description contains errors in the name of the Highway. The proper name is Colorado State Highway 6&24 and also in the call in the next line after course 5. The Highway is shown as Colorado State Highway 60 when it should show U.S. Highway 6&24.  
County of Mesa, State of Colorado

Containing 55.58 acres as described.

Publication Date:

\_\_\_\_\_

Trustee \_\_\_\_\_ introduced, read, and moved the adoption of the Ordinance titled,

**AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF DE BEQUE, COLORADO, APPROVING EAST MESA ENTERPRISES, LLC'S APPLICATION FOR PUD ZONING TEXT AMENDMENT,**

and upon adoption that it be published pursuant to law and recorded in the Book of Ordinances.

Trustee \_\_\_\_\_ seconded the motion. On roll call, the following Trustees voted "Aye":

\_\_\_\_\_, \_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_  
\_\_\_\_\_.

Trustees voted "Nay":

\_\_\_\_\_  
\_\_\_\_\_