

- g.** A referral shall be made to the F.A.A. for whatever precautions they deem necessary prior to the Board of Adjustment hearing.
- h.** A referral shall be made to the PWD Engineering Services Division for their investigation as to possible damage to roads and bridges the granting of the Special Exception Use would cause prior to the Board of Adjustment hearing.

G. RESEARCH AND DEVELOPMENT

Research and development with an outdoor use is not permitted in the B-5 zone district and is subject to use by special review in the B-4 zone district.

H. RETAIL

- 1.** Retail in the I-1 and I-2 zone districts is allowed as an Accessory Use provided the retail space is limited to 25 percent of gross floor area.
- 2.** Retail exceeding 25% of gross floor area may be permitted in the I-1 and I-2 zone districts with an approved Special Exception Use provided the commodity is manufactured, processed, fabricated and/or warehoused only on the premises.

I. WASTE DISPOSAL, RESOURCE RECOVERY, AND RECYCLING OPERATIONS

Commercial sanitary landfills, solid waste disposal site and facility, resource recovery operations and recycling facilities are subject to obtaining the required "Certificate of Designation" as well as all applicable State requirements.

J. INJECTION WELLS

Commercial injection wells are subject to obtaining the required "Certificate of Designation" as well as all applicable State requirements. Injection well sites shall be located adjacent to paved arterial roads. Hours of operation shall be limited to 7:00 am to 7:00 pm.

3-3.5. Marijuana Land Uses

A. INTENT

To provide regulations pertaining to the commercial and non-commercial use of land, buildings and structures for the purpose of growing, selling, producing, distributing, manufacturing, and consuming marijuana and marijuana products.

B. GENERAL: MARIJUANA LAND USES NOT ALLOWED

The use of land, buildings or structures to grow, produce, cultivate, sell, dispense, distribute, store, test or manufacture marijuana and/or marijuana products, or as a marijuana club, is not allowed or permitted throughout unincorporated Arapahoe County, except to the extent specifically identified in Section 3-3.5.C, below.

C. EXCEPTIONS

1. Non-Conforming Commercial Uses

- a.** An exception to the prohibition of marijuana land uses is the use of any land, building or structure for a medical marijuana center where such use commenced prior to December 15, 2009, so long as, and to the extent that, the property owner or other operator can establish that such use was and is in compliance with all of the terms and conditions of Section 6-4, Nonconformities, and all applicable building and fire codes, and so long as such use is in compliance with Article XVIII, Section 14 of the Colorado Constitution and the Colorado Medical Marijuana Code (CMMC), any rules or regulations adopted by the Colorado Department of Revenue, and all other applicable state and local laws and regulations.

- b. Notwithstanding anything in this sub-section or in Section 6-4, Nonconformities to the contrary, in no event shall a medical marijuana center, a medical marijuana-infused products manufacturer, an optional premises cultivation operation or any other commercial marijuana land use be allowed in a residential zone district, in the residential portion of a planned unit development or within a dwelling unit in any other zone district.

2. Non-Commercial Uses

An exception to the prohibition of marijuana land uses is the non-commercial growing, cultivation, storage or production of marijuana or marijuana products, by a person, patient or his or her primary caregiver, to the extent that such activity is specifically authorized as a lawful personal use pursuant to Article XVIII, Section 16 of the Colorado Constitution, or is specifically exempt from criminal prosecution under Article XVIII, Section 14 of the Colorado Constitution, is in compliance with all applicable state and local statutes, rules and regulations and with all applicable building and fire codes, and subject to the following:

a. Dwelling Units

The non-commercial growing, cultivation, storage or production of marijuana or marijuana products may only be conducted as a non-primary use in an agricultural (A-1, AE), rural residential (RR-A, RR-B, RR-C), or residential (R-1-A, R-1-B, R-1-C, R-1-D, R-2-A, R-2-B, or R-M), obsolete residential (R-2, R-3, R-3S, R-4, R-5), or the residential portion of a PUD zone district (including those originally zoned in a R-P, R-PSF, R-PM, R-PH, MU, or SH), and may only be conducted within a dwelling unit (and not on a porch or within a shed, greenhouse or other such structure) by a person residing at the dwelling unit, for such person's own use, or by a primary caregiver on behalf of a patient who resides at the same dwelling unit as the primary caregiver; however, in no event shall more than six plants, with three or fewer being mature flowering plants, be grown or cultivated at any one time by each person or primary caregiver residing at such dwelling unit, up to a maximum of 12 plants total per dwelling unit.

3. Additional Restrictions

The marijuana land uses authorized by subsection 3-3.5.C.2 are subject to the following additional restrictions:

- a. All uses shall be conducted in an enclosed and secure area within a dwelling unit and shall not be visible to the public.
- b. All such uses shall not cause odors, smoke, heat, glare or light that is detectable to a person of normal senses beyond the property line of the property upon which the use is being conducted, or in an adjacent dwelling unit or public area.
- c. Signage or other advertising on the premises of marijuana use that is visible to the public is not allowed.

D. APPLICATION TO EXISTING USES

Notwithstanding any provisions of Section 6-4, Nonconformities, all marijuana land uses are subject to all restrictions contained within this Section 3-3.5 including those uses that were in existence prior to the adoption of this Section 3-3.5 including any amendments thereto, except, and to the extent, that state or federal law requires that the marijuana land uses be exempt from such restrictions.