

SECTION 12-1800 MEDICAL MARIJUANA LAND USES

12-1800 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 and manufacturing medical marijuana and marijuana-infused products.

12-1801 DEFINITIONS

For purposes of this Section 12-1800, the following definitions apply:

- A. *CMMC*** means the Colorado Medical Marijuana Code, C.R.S. Section 12-43.3-101, *et seq.*
- B. *Dwelling Unit*** means any house, apartment unit, condominium unit or other similar structure or unit thereof that is primarily used as a residence.
- C. *Marijuana*** shall mean the seeds, leaves, buds, and flowers of the plant (genus) cannabis, and any mixture, preparation or derivative thereof.
- D. *Marijuana-infused product*** shall mean a product infused with marijuana that is intended for use or consumption other than by smoking.
- E. *Medical marijuana*** shall mean marijuana that is grown, sold or otherwise used for a purpose authorized by Colorado Constitution Article XVIII, Section 14 or the CMMC.
- F. *Medical marijuana center*** means a person or entity that sells medical marijuana to registered patients or primary caregivers, but is not a primary caregiver.
- G. *Medical marijuana-infused products manufacturer*** means a person or entity that manufactures marijuana-infused products.
- H. *Non-commercial*** means not for the purpose of obtaining a profit.
- I. *Optional premises cultivation operation*** means a person or entity that grows or cultivates marijuana for a medical marijuana center or a medical marijuana-infused products manufacturer at a contiguous or non-contiguous location.
- J. *Patient*** has the meaning set forth in Colorado Constitution Article XVIII, Section 14(1)(c).
- K. *Plants*** shall have the same meaning as applied to the word "plants" in Colorado Constitution Article XVIII, Section 14(4)(c).
- L. *Primary caregiver*** has the meaning set forth in Colorado Constitution Article XVIII, Section 14(1)(f).

12-1802 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-infused products is not allowed or permitted throughout unincorporated Arapahoe County, except to the extent specifically identified in Section 12-1803.

12-1803 EXCEPTIONS

12-1803.01 Non-Conforming Commercial Uses

An exception to the prohibition of marijuana land uses is the use of any land, building or structure by a medical marijuana center, a medical marijuana-infused products manufacturer or an optional premises cultivation operation, that 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 Chapter 11 of the Land Development Code (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 CMMC and any rules or regulations adopted by the Colorado Department of Revenue, and all other applicable state and local laws and regulations. Notwithstanding anything in this sub-section or in Chapter 11 of the Land Development Code 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.

12-1803.02 Non-Commercial Uses

An exception to the prohibition of marijuana land uses is the non-commercial growing, cultivation, storage or production of medical marijuana or marijuana-infused products, by a registered patient or his or her registered primary caregiver, to the extent that such activity is 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 is conducted in compliance with the following use restrictions:

12-1803.02.01 Residential Zone Districts

The non-commercial growing, cultivation, storage or production of medical marijuana or marijuana-infused products may be conducted in a residential zone district or in the residential portion of a planned unit development, but only so long as it is conducted within a dwelling unit by a registered patient residing at the dwelling unit, for such patient's personal use, or by a registered primary caregiver on behalf of a registered patient who resides at the same dwelling unit as the primary caregiver; however, in no event shall more than 6 plants per registered patient be grown or cultivated at any one time, up to a maximum of 12 plants total, in a residential dwelling unit.

12-1803.02.02 Other Zone Districts

The non-commercial growing, cultivation, storage or production of medical marijuana or marijuana-infused products may also be conducted by both registered patients and their registered primary caregivers in the B-4, B-5, I-1, I-2, A-1 and A-E zone districts, or in the commercial or industrial portion of any planned unit development where such use has been specifically approved in a final development plan, and no others; however, with the exception of the growing or cultivation of 12 or fewer plants, or the storage of 4 ounces or less of medical marijuana, the uses authorized in this subsection shall not be conducted within 1,000 feet of any church, school, residential zone district, dwelling unit, public park or licensed child-care center. Except as otherwise indicated herein, the limitation on the number of plants set forth in subsection 12-1803.02.01 shall not apply to the growing or cultivation of medical marijuana authorized by this sub-section; however, patients and primary caregivers must still comply with all limitations established by state law and regulations.

12-1803.02.02.01 Method of Measuring Distances

For purposes of sub-section 12-1803.02.02, the distance between one of the allowed uses set forth in that sub-section and any church, school, residential zone district, dwelling

unit, public park or licensed child-care center, shall be measured in a straight line, without regard to intervening structures or objects, from the nearest property line of the property on which the allowed use is being conducted to the nearest property line of the premises of a church, school, dwelling unit (single or multiple) or child-care center, or the nearest boundary of an affected public park or residential zoning district. Notwithstanding the foregoing, for purposes only of measuring the distance between an allowed use and a dwelling unit, where the allowed use is being conducted in a dwelling unit or other structure within an A-1 or A-E zone district, the distance shall be calculated by measuring the distance between the nearest portion of the dwelling unit or other structure where the use is being conducted and the nearest portion of a dwelling unit other than the dwelling unit where the use is being conducted.

12-1803.02.03 Additional Restrictions

The medical marijuana uses authorized by sub-section 12-1803.02 are subject to the following additional restrictions:

A. All such uses shall be conducted in an enclosed and secure structure or an area within a structure 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 the medical marijuana use that is visible to the public is not allowed.

12-1803.02.04 Application to Existing Uses

Notwithstanding any provisions of Chapter 11 of the Land Development Code (Nonconformities), all medical marijuana uses authorized by Section 12-1803.02 are subject to all restrictions contained within that section or its subsections, including those uses that were in existence prior to the adoption of Section 12-1803.02 or its sub-sections, except, and to the extent, that state or federal law requires that the medical marijuana uses be exempt from such restrictions.

MARIJUANA ESTABLISHMENTS, PROHIBITING ESTABLISHMENT, MAINTENANCE, AND OPERATION OF ORDINANCE NO. 2013-01

ARAPAHOE COUNTY, COLORADO

NOTICE OF PUBLIC HEARING

ORDINANCE NO. 2013-01

**AN ORDINANCE PROHIBITING THE ESTABLISHMENT, MAINTENANCE
AND OPERATION OF MARIJUANA ESTABLISHMENTS WITHIN
UNINCORPORATED ARAPAHOE COUNTY**

WHEREAS, pursuant to C.R.S. §§ 30-11-101(2) and 30-15-401(1), Arapahoe County has the power to adopt and enforce ordinances regarding health, safety and welfare issues as otherwise prescribed by law; and

WHEREAS, pursuant to C.R.S. § 30-11-103, the Board of County

Commissioners has the authority to exercise all powers for the County; and

WHEREAS, at the general election held on November 6, 2012, Colorado voters approved the adoption of Amendment 64 thereby amending the Colorado Constitution to add Section 16, Personal Use and Regulation of Marijuana, to Article XVIII of the Colorado Constitution; and

WHEREAS, Colorado Constitution, Article XVIII, Section 16(5)(f) authorizes the County to prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores through enactment of an ordinance; and

WHEREAS, similar authorization to prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores may be found in C.R.S. § 12-43.4-104(3); and

WHEREAS, it is the opinion of the Board of County Commissioners of Arapahoe County; that in order to preserve the public peace, health, safety and welfare of the citizens of Arapahoe County, they should prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores; and

WHEREAS, the operation of licensed medical marijuana centers that are in compliance with the provisions of the Colorado Medical Marijuana Code and the Arapahoe County Land Development Code shall be unaffected by this Ordinance.

NOW, THEREFORE, BE IT ORDAINED, by the Board of County

Commissioners of Arapahoe County, the following:

SECTION I. INTENT

The Board of County Commissioners (the "Board") finds, determines and declares that the prohibition of marijuana establishments including, but not limited to marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, and retail marijuana stores is necessary to promote the general public health, safety and welfare of the residents of Arapahoe County, Colorado.

SECTION II. DEFINITIONS

Unless otherwise specified or the context otherwise requires, any terms used in

this Ordinance shall have the same meanings as provided in Colo. Const., Article XVIII, Section 16. These terms and definitions include but are not limited to:

A. "Marijuana" or "marihuana" 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 marihuana concentrate. "Marijuana" or "marihuana" 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.

B. "Marijuana cultivation facility" means an entity licensed to cultivate, prepare, and package marijuana and sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

C. "Marijuana establishment" means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, or a retail marijuana store.

D. "Marijuana product manufacturing facility" means an entity licensed to purchase marijuana; manufacture, prepare, and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

E. "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.

F. "Marijuana testing facility" means an entity licensed to analyze and certify the safety and potency of marijuana.

G. "Person" means a natural person, partnership, association, company, corporation, limited liability company, or organization; except that "person" does not include any governmental organization.

H. "Retail marijuana store" means an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing facilities and to sell marijuana and marijuana products to consumers.

SECTION III. MARIJUANA ESTABLISHMENTS PROHIBITED

The establishment, maintenance and/or operation of a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, OR a retail marijuana store is prohibited.

SECTION IV. APPLICABILITY

This Ordinance shall apply to all portions of unincorporated Arapahoe County, including public lands.

SECTION V. ENFORCEMENT

The Arapahoe County Sheriff shall enforce the provisions of this Ordinance.

SECTION VI. PENALTY FOR VIOLATIONS

The County may seek such criminal and/or civil penalties against any person violating this Ordinance as are provided by law.

SECTION VII. DISPOSITION OF FINES

Any and all penalties, fines, costs and/or assessments for violations of this Ordinance shall be paid into the General Fund of Arapahoe County.

SECTION VIII. SEVERABILITY

If any one or more of the provisions of this Ordinance is determined by a competent court of law to be invalid, such determination shall not affect the validity of the remaining portions of this Ordinance.

SECTION IX. EFFECTIVE DATE

This Ordinance shall take effect upon its adoption. This is necessary for the immediate preservation of the public peace, health, safety and welfare, due in part to the need to control activity subject to this Ordinance as soon as possible.

BOARD OF COUNTY COMMISSIONERS

ARAPAHOE COUNTY, COLORADO ·

CERTIFICATE

It is hereby certified that the foregoing Ordinance No. 2013-01 was introduced, read and adopted on first reading at the regular meeting of the Board of County Commissioners of the County of Arapahoe on July 30, 2013 (Resolution No. 130486) and the same was published in full in The Villager, a newspaper of general circulation published in Arapahoe County on August 8, 2013, the Littleton Independent and the Aurora Sentinel on August 8, 2013, and the I-70 Scout on August 6, 2013, and thereafter was adopted on second and final reading at a regular public hearing of the Board of County Commissioners of the County of Arapahoe on August 27, 2013 (Resolution No. 130560). Said ordinance, following adoption, was published by title in The Villager, the Littleton Independent and the Aurora Sentinel on September 19, 2013, and the I-70 Scout on September 17, 2013. Said Ordinance went into effect on August 27, 2013.

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Rod Bockenfe , Chmr

INTRODUCED, READ AND ADOPTED ON FIRST READING on July 30, 2013 (Resolution No. 130486) and ordered published in full in The Villager, Greenwood Village, Arapahoe County, Colorado.

ADOPTED ON SECOND AND FINAL READING on August 27, 2013 (Resolution No. 130560) and ordered published by title in The Villager, Greenwood Village, Arapahoe County, Colorado.

Date of publication after adoption: September 19, 2013.

MATT CRANE

CLERK TO THE BOARD

By : ~ e