

Marijuana production in Unincorporated Saguache County;

The word “shall” is mandatory

The word “may” is permissive

The word “person” include a firm, association, organization, partnership, trust, company or corporation as well as an individual.

Unless previously approved by Saguache County through a Conditional Use or Variance process no marijuana grow areas, manufacturing facility or store will be “grandfathered in”.

It shall be unlawful for any person who is not licensed under Article 43.3 or Article 43.4 of Title 12, CRS to sell or manufacture Marijuana products without first obtaining a Conditional Use permit from Saguache County.

No Marijuana Establishment shall be allowed as a Home Occupation. Colorado Constitutional Article XVIII, Section 14 and 16.

All Industrial HEMP growers that are registered with the State of Colorado Department of Agricultural shall supply a copy of their State of Colorado License on a form provided by the Saguache County Land Use Office with a charge of \$100 per year.

Any Marijuana grow areas must be owned by the licensed caregiver, State Licensed holder, or must provide a copy to the SCLUO, a contract for such use. Renters must obtain written permission from landlords to grow, cultivate and process medical marijuana, retail marijuana, marijuana test areas or marijuana grow areas.

State Licenses are required for all Medical Marijuana sales, grow areas or production and Commercial sales or Grow Areas. All must be registered with Saguache County and licensed through the State of Colorado. Colorado Constitutional Article XVIII, Section 14 and 16.

All Structures are required to have a construction permit and On Site Waste Water Treatment Facility, if applicable.

Any type of Marijuana production shall not be accessible to children, casual passersby, vandals or anyone not authorized to possess Marijuana.

No person may engage in Marijuana production in a manner that adversely affects the health or safety of the nearby property owner including, but not limited to:

- a. Having visibility of plants from the exterior of the structure(s) or any other common visual observation, including any form of signage
- b. Emitting unusual odors, smells, fragrances or other olfactory stimulus
- c. Emitting light pollution, glare or brightness that disturbs the repose of another
- d. Causing unreasonable noise or vibration
- e. Cause undue vehicular or foot traffic, including excess parking
- f. The growing cultivation and processing of medical marijuana shall not be perceptible from the exterior of the primary residence, including but not limited to: odor, common visual

observation; light pollution/glare, undue vehicular or foot traffic and noise from the exhaust fan.

Any State issued license holder is required to register with the Saguache County Land Use office on a form provided.

Recreational Grows

The number of plants allowed on residential properties shall be limited to 12 per residential household, if more than 12 will be grown the grow becomes commercial and requires County permitting through a variance process approval PRIOR to beginning grow season. If more than 12 plants are being grown the production becomes a commercial grow area and Saguache County approval is required.

A total of 55 plants may be grown in a greenhouse that is 20 feet by 100 feet.

Recreational Marijuana grown outdoors shall be contained entirely in an area that is completely fenced or screened from view with a locked gate for safety and shall not be visible from any right of way, any residence or the public.

Marijuana Production

In order to engage in Marijuana production, the person(s) engaged in Marijuana production must reside in the single-family dwelling or the unit of a multi-family dwelling located on the property.

There shall be no processing, extracting and/or storing of marijuana off premises from where the Marijuana is grown. NO home grows will be allowed on vacant parcels in subdivisions or other county vacant land.

Medical Marijuana

The growing, cultivation and processing of medical marijuana shall not be perceptible from the exterior of the primary residence, including but not limited to: odor, common visual observation; light pollution/glare, undue vehicular or foot traffic and noise from the exhaust fan.

Enclosed Locked Structure allows for a structure that:

- a. Does not allow for the visibility of the interior from the outside
- b. Is secured for safety
- c. Is completely surrounded on all sides by a wall or fence

Enclosed locked structures may include dwelling units and other primary structures as well as greenhouses and accessory buildings.

Marijuana grow areas must be owned by the licensed caregiver, State License holder and must provide a copy to the SCLUO, a contract for such use.

Renters must obtain written permission from landlords to grow, cultivate and process medical marijuana, retail marijuana, marijuana test areas or marijuana grow areas, written permission must be supplied to the SCLUO also.

If a license is granted by the State of Colorado to grow 99 plants the landowner must apply for a Variance to allow for this amount of plants.

No person may engage in Marijuana production in a manner that adversely affects the health or safety of the nearby property owner including, but not limited to:

- g. Having visibility of plants from the exterior of the structure(s) or any other common visual observation, including any form of signage
- h. Emitting unusual odors, smells, fragrances or other olfactory stimulus
- i. Emitting light pollution, glare or brightness that disturbs the repose of another
- j. Causing unreasonable noise or vibration
- k. Cause undue vehicular or foot traffic, including excess parking

Marijuana Production

Marijuana production prior to the adoption of these regulations shall not be permitted as a non-conforming use. There will be no “grandfathering” of the number of plants the home grows already possess prior to the adoption of these regulations.

Extraction shall comply with CRS 18-18-406.6 and any other applicable State law or regulation.

Extraction using alcohol or ethanol outside of a licensed medical marijuana infused products manufacturing facility or a licensed retail marijuana products manufacturing facility in compliance with the applicable State and Local Laws and all rules and regulations promulgated thereunder is permitted only if:

- a. Such production is approved by the appropriate Official, if such approval is required by the official; and
- b. The production of Marijuana concentrate is done without the application of any heat from a fuel fired or electrified source and uses not more than sixteen (16) ounces of alcohol or ethanol during each extraction process and there are not hazardous chemicals, gases, explosives, flammable materials or similarly dangerous substance have been used in any pipes, tanks or other equipment on the property.
- c. Water Based Extraction, Food Based Extraction and Alcohol Based Extraction are the only forms of Extraction permitted in the unincorporated areas of Saguache County, unless otherwise licensed by the State of Colorado.
- d. If the person or entity performing Marijuana Extraction is a Caregiver pursuant to Section 14 of Article XVIII of the Colorado Constitution, the requested Marijuana Extraction documentation shall be submitted to the Saguache County Land Use Department at the same time as the Caregiver provides the Saguache County Land Use Department a copy of the State Licensing Authority registration certificate/document.

Marijuana Caregivers

All Marijuana Caregivers must register their State of Colorado issued License with Saguache County Land Use office. A form will be provided to caregiver for Registration and a fee will be established for the registration. A copy of Medical Provider Registration Card must be provided.

No more than six (6) medical marijuana plants may be grown, cultivated and processed by a patient or caregiver and no more than thirty-six (36) medical marijuana plants may be grown, cultivated or processed in a residence, regardless of the number of patients and/or caregivers residing in the residence. Article 43.3 or Article 43.4 of Title 12, CRS.

No more than a maximum of thirty-six (36) medical marijuana plants may be grown, cultivated or processed in a residence, regardless of the number of patients and/or caregivers residing on the residential property.

The growing cultivation and processing of medical marijuana shall not be perceptible from the exterior of the primary residence, including but not limited to: odor, common visual observation; light pollution/glare, undue vehicular or foot traffic and noise from the exhaust fan.

Caregivers may grow, within an Enclosed Locked Structure which means a structure that:

- d. Does not allow for the visibility of the interior from the outside
- e. Is secured with a lock and security system
- f. Is completely surrounded on all sides by a wall

Enclosed locked structures may include dwelling units and other primary structures as well as greenhouses and accessory buildings.

The growing cultivation and processing of medical marijuana shall not be perceptible from the exterior of the primary residence, including but not limited to: odor, common visual observation; light pollution/glare, undue vehicular or foot traffic and noise from the exhaust fan.

Enclosed locked structures may include dwelling units and other primary structures as well as greenhouses and accessory buildings.

VIOLATIONS and ENFORCEMENT

1. It is unlawful and a violation of the terms and conditions of every permit issued under this Code to cultivate, manufacture, distribute, store, test or sell marijuana except in compliance with the terms, conditions, limitations and restriction in Sections 14 and 16 of Article XVIII of the State of Colorado Constitution, the Colorado Marijuana Code, the provisions of this Code and any conditions imposed on a permit pursuant to this Code.
2. It shall be unlawful for any person to engage in any form of business or commerce directly involving the cultivation, processing, manufacturing, sale or testing of marijuana other than those forms of businesses that are expressly contemplated by this Code and the Colorado Marijuana Code.
3. The consumption of marijuana may not be done openly and publicly.
4. The premise otherwise complies with Article IV of the Saguache County Land Development Code.
5. It is unlawful and a violation of the Code for a marijuana establishment to operate until it has been permitted under this Code by the Local Permitting Authority and also licensed by the State Licensing Authority pursuant to the Colorado Marijuana Code.
6. It is unlawful and a violation of this Code and further a violation of each license issued pursuant to this Code for a person or permittee to commit any act or omission which is unlawful pursuant to the Colorado Marijuana Code. In addition to the criminal penalties specified therein, any permittee who commits any acts that are unlawful pursuant to this Code and/or pursuant to the Colorado Marijuana Code shall be subject to a summary suspension, a suspension, fines, and/or a revocation of its permit.
7. In addition to any other civil or criminal sanction prescribed by Colorado Law or rules promulgated pursuant thereto, the Local Licensing Authority has the power, on its own motion or on complaint, after investigation and opportunity for a public hearing at which the permittee shall be afforded an opportunity to be heard, to fine, restrict, suspend or revoke a permit issued by the Local Licensing Authority for a violation by the permittee or by any other of the agents or employees of the permittee of the provision of this Code, the Colorado Marijuana Code and/or of any of the other terms, conditions or provisions of the license issued by the Local Licensing Authority. Summary suspension, suspension, revocation and/or fines may be imposed by the Local Licensing Authority and in commencing and concluding such actions, the Local Licensing Authority shall comport with the provision of the Colorado Marijuana Code.
8. Each person permitted pursuant to this Code shall keep and maintain all records specified in the Colorado Marijuana Code and shall make the same open at all times, during business hours for the inspection and examination of the Local Licensing Authority or its duly authorized representatives. A failure to maintain such records and to allow for inspection of the same as well as a failure to allow the inspection of the permitted premises by the Local Licensing Authority shall constitute a violation of this Code and such violation may in the discretion of the Local Licensing Authority, form or constitute the basis for a summary suspension, a suspension, fines and/or revocation of the permittees permit.
9. Stipulations regards violations of these Regulations may be executed by the Saguache County Land Use Staff or the Saguache County Sheriff's office consistent with the following;

- a. The Inspector may make determinations regarding the type of sanction to impose based upon the; severity of the violation and in conformance with the following categories of violations:
 1. Permit Infractions of violation may include, but is not limited to, failure to display required badges, unauthorized modifications of the Permitted Premises of a minor nature, or failure to notify the Local Licensing Authority of a minor change in ownership. The range of penalties for this category of violation may include a verbal or written warning or a fine per individual violation of up to one thousand dollars (\$1000), depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the permit.

The permitted premises, including but not limited to any places where marijuana is grown, stored, cultivated, sold, tested or dispensed, shall be subject to inspection by the Local Licensing Authority or it's designee, and any other state or local law enforcement personnel during all business hours and other times of apparent activity, for the purpose in inspection or investigation.

In the event of a written complaint or annual review the Land Use Inspector may request verbal permission from the property owner or applicant to access the property and any structure(s) on the property during business hours Monday through Friday, 8am to 4pm, for the purpose of conducting a physical inspection of the property to determine compliance with the requirements of these regulations.

If permission is denied to the Land Use Inspector or Code Enforcement Officer or Administrative Warrant, to inspect the property and the Land Use Inspector has reasonable belief there is imminent danger to the public health, safety or welfare or non-compliance with these regulations the Land Use inspector shall have the authority to request the Saguache County Sheriff's Office to conduct an inspection of the property within their authoritative powers

If such inspection reveals non-compliance with these regulations the Land Use inspector, Code Enforcement Officer or Administrative Warrant shall pursue the non-compliance violation through proper authority and action as allowed within the Saguache County Land Development Code.

Any violation to other agencies will be forwarded to the proper agency for their review and comment.

CHANGES TO EXISTING REGULATIONS – underlined

IV7.2.3. These uses shall not be located within 1,000 feet of a licensed alcohol or drug treatment facility or meeting area, a licensed child care facility, or an educational facility up to and including college grade level, designated school bus stops and or substantially similar facilities in an adjacent municipality, government buildings, hospitals and/or clinic buildings, as measured from the closest point of the subject parcel lines.

IV. 7.2.4. Lighting – No artificial lighting for cultivation purposes shall be visible from outside, if it creates a nuisance.

IV.7.2.5. All applications for this type of use must include the following:

IV.7.2.5.1. An approved copy of the State MED (Marijuana Enforcement Division) License must be supplied to the Land Use Office within 10 days of receipt from the State of Colorado Department of Revenue.

IV.7.2.6. Approved Water Supply – must provide a copy of approved State of Colorado Permit or contract for water.

The Division of Water Resources is responsible for the administration of water use in Colorado. Water must be used in a manner consistent with applicable decrees and well permits. There is a presumptive irrigation season of April 1 through November 1 in the San Luis Valley. Year round irrigation and processing of commercial crops and products requires a legal water supply. For example, a well decreed for irrigation use must not operate outside the presumptive season without Water Court or State Engineer approval; and a domestic well is not a legal water supply for a commercial greenhouse. Please contact the Division of Water Resources at (719) 589-6683 or the Division office, located at 301 Murphy Drive in Alamosa for clarification of legal water supplies associated with the cultivation and processing of marijuana, hemp, and other year-round crops in the San Luis Valley. The DWR website can also provide valuable information at www.water.state.co.us

IV.7.2.7. Approved Sewage Disposal Permit.

Waste product from the Marijuana production shall be disposed of properly so as not to cause risk for consumption by others or as not to attract rodents, pests and public curiosity.

Waste product from the Marijuana production shall be disposed of properly so as not to cause contamination of ground water and must be in accordance with applicable Saguache County and State of Colorado Individual Sewage Treatment Facility regulations.

Definitions:

Bus Stop – means a location designated by the local school department of transportation for the entering and discharging of school students on a school bus for transportation to a public or charter school, locations to be provided by school districts.

Care-giver – means a person, other than the patient and the patient’s physician who is eighteen (18) years of age or older and has significant responsibility for managing the well-being of a patient who has a debilitating medical condition.

Charter School means a public school that operates pursuant to a charter contract entered into pursuant to sec. 22-30.5-101, C.R.S.

Extractions/Extracting means the manufacture, production or processing of Marijuana by means of water based extraction, food based extraction, alcohol based extraction or by other substances that do not contain an inherently hazardous substance as defined in CRS 18-18-406.6. Extraction includes the method of extracting cannabinoids and other essential components of Marijuana that can be used as stand-alone product or can be used to make edible products.

Food Based Extraction means extraction/extracting through the use of propylene glycol, glycerin, butter, olive oil or other typical cooking fats. Inherently hazardous substances as defined in CRS 18-18-406.6 shall not be used in food based extraction.

Industrial Hemp means that the plant of the genus cannabis and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration that does not exceed three tenth (3/10) percent on a dry weight basis.

Licensed Alcohol Treatment Facility as used in these regulations means either an approved private or public treatment facility approved pursuant to sec. 27-82-106 or Sec. 27-81-106, C.R.S.

Licensed Substance Treatment Center defined as used in these regulations means a private or public treatment facility approved pursuant to 27-82-103, C.R.S.

Marijuana Establishment means both a medical marijuana establishment and a retail marijuana establishment.

Marijuana Infused Product means a product infused with marijuana that is intended for use or consumption other than by smoking, including but not limited to edible products, ointments and tinctures.

Marijuana Plant means a living organism that grows in a medium has leaves or flowers needs sun or artificial light and water to survive and that is produced from a seed, cutting, clipping or seedling. Marijuana plant does not include industrial hemp, as that term is defined in Section 16 of Article XVIII of the Colorado Constitution.

Marijuana Production means processing, extracting and/or storing Marijuana as defined herein.

Medical Marijuana means marijuana that is grown, manufactured, stored and/or sold pursuant to the provision of the Colorado Medical Marijuana Code Section 14 of Article SVIII of the Colorado Constitution.

Medical Marijuana Center means a person licensed pursuant to this Title and pursuant to CRS 12-43.3-101, et. seg., to operate a business as described in the licensing regulations and as is further described in CRS 12-43.3-402 that sells medical marijuana to registered patients or primary caregivers as defined in Section 14 of Article XVIII of the Constitution of the State of Colorado, but is not a primary caregiver.

Medical Marijuana Establishment means a Medical Marijuana Center, Medical Marijuana Infused-Products Manufacturing Operation, Medical Marijuana Optional Premise Cultivation Operation or a Storage Warehouse.

Medical Marijuana Infused Product means a product infused with medical marijuana that is intend for use or consumption other than by smoking, including but not limited to edible products, ointments and tinctures.

Medical Marijuana Infused Products Manufacturer means a person licensed pursuant to this Title and to CRS 12-43.3-101 et seq. to operate a business as described in the Licensing Regulations and as also described in CRS 12.43.3.403.

Medical Marijuana Optional Premises means a person licensed pursuant to this Title and pursuant to CRS 12-43.3-101, et. seg., to operate a business as described in the Licensing Regulations and as further described in CRS 12-43.3-403.

Processing means the drying, trimming and packaging of Marijuana plants, but processing does not mean marijuana infused product manufacturing and or extraction.

Public School means a school that derives its support, in whole or part, from money raised by a general state, county, or district tax.

Recreational Grows means to grow marijuana for personal use.

Retail Marijuana means all parts of the plant of the genus cannabis whether growing or not, the seed 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, that is cultivated, manufactured, distributed, or sold by a licensed Retail Marijuana Establishment. "Retail Marijuana" does not include industrial hemp, nor does it include fiber produced from 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.

Retail Marijuana Cultivation Facility means an entity licensed to cultivate, prepare and package retail marijuana and sell retail marijuana to retail marijuana establishments, but NOT to consumers.

Retail Marijuana Establishment means a retail marijuana store a retail marijuana cultivation facility, a retail marijuana products manufacturing facility or a retail marijuana testing facility or a storage warehouse as set forth in Section 16 of Article XVIII of the Colorado Constitution and as may be more fully defined in the Colorado Retail Marijuana Code and Section 16 of Article XVII of the Colorado Constitution.

Retail Marijuana Infused Products Manufacturer means a person licensed pursuant to these regulations and the Colorado Retail Marijuana Code.

Retail Marijuana Store means an entity licensed to purchase Retail Marijuana from a Retail Marijuana Cultivation Facility and to purchase Retail Marijuana Product from a Retail Marijuana Products Manufacturing Facility and to sell Retail Marijuana and Retail Marijuana Product to consumers.

Retail Marijuana Testing Facility means a Saguache County Licensed Facility that allows manufacture of marijuana infused products for the purposes of sales. Also means a public or private laboratory licensed and certified or approved by the State of Colorado to conduct research and analyze retail marijuana, retail marijuana products and retail marijuana concentrate for contaminants and potency.

Storing means to store Marijuana by the person who grew or has grown and processed the same prior to any transfer of such Marijuana to any person, but does not include the storing of Marijuana transferred to a person from a licensed marijuana establishment, another person or from a caregiver. Storing is intended to be understood as a phase of cultivation and preparation process rather than the mere possession of Marijuana.

Water Based Extraction means extraction/extracting through the use of only water, ice or dry ice.

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