

### 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. Commercial Marijuana Store

An exception to the prohibition of marijuana land uses is the Commercial Marijuana Store, provided that, as of August 1, 2022, the store is licensed by the State of Colorado and under the Arapahoe County Marijuana Licensing Policy and operating and open to the public in compliance with all applicable State and County laws and regulations, including but not limited to the provisions of the Colorado Constitution, the Colorado Marijuana Code, the Arapahoe County Land Development Code, and the Arapahoe County Marijuana Licensing Policy.

##### a. Limit on Commercial Marijuana Stores Allowed in Unincorporated Arapahoe County.

No more than four (4) commercial marijuana stores are permitted to operate within unincorporated Arapahoe County. For purposes of this regulation, a commercial marijuana store is considered as counting toward this limit whether the store is licensed for medical sales only, retail sales only, or both medical and retail sales. Moreover, where multiple commercial marijuana stores are under common ownership and located within unincorporated Arapahoe County, each location is counted towards this limit.

##### b. Relocation or Replacement of Commercial Marijuana Stores.

Commercial marijuana stores may be moved to alternate locations within unincorporated Arapahoe County or may be replaced by other commercial marijuana stores at other locations in unincorporated Arapahoe County provided all of the following apply:

- i. Approval of a commercial marijuana store at the alternate or replacement location shall not increase the total number of commercial marijuana stores in unincorporated Arapahoe County above any limitation on the total number of stores as provided in Section 3-3.5.C.1.a above.
- ii. The alternate or replacement location shall:
  - (a) Be located in an area zoned B-3, B-4, B-5, I-1, I-2 or in an approved PUD zoned for retail or industrial use that does not otherwise prohibit retail or retail marijuana uses in the PUD;
  - (b) Meet the following additional locational requirements:
    - (i) Not be located east of the North-South alignment of Watkins Road;

- (ii) Not be located within one quarter mile of the center point of the intersection of East Belleview Avenue and South Quebec Street;
    - (iii) Not be located south of Arapahoe Road, between I-25 and South Parker Road;
    - (iv) (Not increase the number of commercial marijuana stores to more than two within a one and one-half mile radius around any existing licensed commercial marijuana store in unincorporated Arapahoe County;
  - (c) Be approved through a Use by Special Review in accordance with Section 5-3.4 of this Land Development Code, except that Use by Special Review approval is not required to replace, repair, or expand or relocate within the same structure, subject to any other requirements or restrictions stated in this Land Development Code, or other applicable law, ordinance, policy, or regulation, at an existing approved and licensed location; and
  - (d) Be in compliance with all State and County requirements for commercial marijuana uses and facilities, such as and without limitation, setbacks from other uses, store number limitations, distance limitations, or other location restriction established by applicable law or regulation.
- iii. The commercial marijuana store building at the alternate or replacement location shall:
- (a) Not exceed 5,000 square feet in size; and
  - (b) Utilize effective measures to mitigate the perceptible odor of marijuana at the exterior of the building at the licensed premises or at any adjoining use of the property.
- iv. The owner shall obtain, prior to any operations, all required State and County licenses or permits, and shall operate in compliance with all applicable State and County laws and regulations, including but not limited to the provisions of the Colorado Constitution, the Colorado Marijuana Code, the Arapahoe County Land Development Code, and the Arapahoe County Marijuana Licensing Policy

## **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, R1-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.

**4. DEA Registered Marijuana Manufacturing and Research Facility**

An exception to the prohibition on marijuana land uses is the operation of a facility registered by and in good standing with the U.S. Drug Enforcement Administration (DEA) to engage in manufacturing of marijuana and marijuana products for research and development purposes. A DEA registered marijuana manufacturing and research facility is a permitted use in industrially zoned areas (I-1, I-2, and PUD areas allowing industrial uses) and shall not be subject to the requirements and restrictions in this Section 3-3.5, except that the facility shall:

- a. Conduct all manufacturing and research operations and uses within the facility and so as not to be visible from outside the facility;
- b. Operate the facility in a manner that does not cause odors, smoke, heat, glare or light, aside from normal outdoor facility lighting, 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 or public area; and
- c. Maintain the DEA registration in good standing with DEA for all marijuana uses authorized under the Land Development Code and shall furnish a proof of continuing and good standing registration with the DEA to the County when requested.

**D. APPLICATION TO EXISTING USES**

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.

**TABLE 3-2.1 PERMITTED USE TABLE**

P = Permitted, A = Accessory, SR = Use by Special Review, SE = Use by Special Exception, T= Temporary Use/Temporary Use Permit Required, Blank = Not Permitted

	Agriculture and Residential <sup>[1]</sup>												Non-Residential <sup>[1]</sup>							PUD Districts <sup>[2]</sup>	Overlay	Use Specific Standard		
	A-E	A-1	RR-A	RR-B	RR-C	R-1-A	R-1-B	R-1-C	R-1-D	R-2-A	R-2-B	R-M	B-1	B-3	B-4	B-5	I-1	I-2	F <sup>[3]</sup>	O	PUD	SBC-O	Code Section	
Convenience store, 24-hour operation, with or without gas pumps														SR	SR	SR	SR	SR			Per Approved General, Specific, Preliminary or Final Development Plan	SR		
Farmer's Market (Year-Round)	SE	SE																						3-3.12.G
Farmer's Market (Seasonal)	P	P	T										T	T	T	T							T	3-3.12.G
Firewood, Storage and Sale	SE	SE	SE																					
Marijuana, Commercial uses																	P	P						3-3.5.B, 3-3.5.C
Retail													A	P	P	P	A	A						3-3.4.H
Retail - Department,																						P		

Per Approved  
General, Specific,  
Preliminary or Final  
Development Plan