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New Land Use and Water Policy Geographies in Emerging Cannabis Markets: the Case of Pueblo County, Colorado

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**NEW LAND USE AND WATER POLICY GEOGRAPHIES IN
EMERGING CANNABIS MARKETS: THE CASE OF
PUEBLO COUNTY, COLORADO**

by

JASON ADAM KIKEL

**PREVIOUS DEGREES
BACHELOR OF ARTS, GEOGRAPHY
WEST VIRGINIA UNIVERSITY, DECEMBER 2013**

THESIS

Submitted in Partial Fulfillment of the
Requirements for the Degree of

MASTER OF COMMUNITY & REGIONAL PLANNING

The University of New Mexico
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Note: Some names have been changed.

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ABSTRACT

Voters and legislatures throughout the country are winding down the War on Drugs and legalizing marijuana for medical and retail use. While many regulatory decisions are made at state capitals nationwide, the marijuana landscape is largely shaped by local authorities exercising influence through land use planning.

Over a decade after passing a voter-initiated medical marijuana program, Colorado voters approved a State Constitutional Amendment fully legalizing marijuana for adult use. The *Regulate Marijuana like Alcohol Act of 2012* made Colorado the first state to legalize the sale, taxation, and possession of marijuana through a commercial market. Local governments were given the choice to permit or ban the cultivation and sale of marijuana within their jurisdictions, while also having the prerogative to use zoning to shape the market's landscape.

One local jurisdiction, Pueblo County, modified their existing land use regulations for medical marijuana cultivation and sale and permitted retail marijuana cultivation and sale—mostly as a by-right land use throughout the County. Current federal policies have complicated the ability of cannabusiness owners to obtain legal water. This thesis explores the implications of new land use and water regulations placed upon the rapidly growing marijuana industry and will further assist in policy development as other states legalize marijuana.

Qualitative research methods utilized in this thesis include content and relational analyses of zoning compliance information and interviews with County land use and zoning officials, water managers and regulators, and three licensed marijuana cultivators. Questions focused on the federal, state, and local policies that influence regulation and cannabusiness development and operations, as well as experiences acquiring zoning approval and a legal water supply.

Findings include the basis for development of marijuana land use policies in Pueblo County, addressing security and other public land use concerns, water service concerns, challenges including federal water policy and the future of the emerging marijuana and hemp industries in Pueblo County. This thesis identifies considerations for evolving marijuana markets and recommendations for communities facing local land use questions in light of state-level legalization.

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Definitions—Cannabis Terms

Cannabis	Plant that includes multiple species: sativa, indica, and ruderalis The plant is bred for psychoactive (drug) and non-psychoactive (industrial) uses as marijuana and hemp.
Cannabusiness	A business that cultivates, processes, or sells cannabis (marijuana)
Dispensary	Licensed commercial marijuana sale and distribution point
Extraction	The process of removing THC from marijuana flower, typically for inhalation or ingestion.
Hemp	Industrial non-drug varieties of the cannabis plant
Infusion	Adding marijuana to food products, creating “edibles”
Marijuana	Common name for cannabis plants intended for psychoactive use or medicine
Tetrahydrocannabinol	The primary psychoactive compound in marijuana, also known as THC

Definitions—Pueblo County Zone Districts¹

Zone District		Intent of Standards
Agricultural One	A-1	To “promote the appropriate use of dry range and irrigated lands and encourage open use of the land in keeping with its natural characteristics and agricultural functions”
Agricultural Two	A-2	
Neighborhood Business District	B-1	“Areas for the sale at retail of those convenience type goods and services required by the residents of the immediate neighborhood and for those outlets which by their nature create no nuisances and serve a trade territory of only one neighborhood”
Community Business District	B-4	“Designed to retain and provide areas for the sale at retail of convenience type and shopper goods and services”
Special Industrial District	I-1	“Areas for the development of manufacturing or wholesaling activities in a park-like atmosphere and to the exclusion of non-compatible uses or operations”
Light Industrial District	I-2	“Areas for the manufacture, assembly, packaging, warehousing, jobbing, and limited retailing of products from previously prepared materials, which by their inherent characteristics and the operations involved are not obnoxious to one another or surrounding uses”
Heavy Industrial District	I-3	“Areas for industrial and primary manufacturing uses which because of the products used or produced and the nature and extend of the products used or produced and the extent of the operations should not be located in close proximity to residential districts”
Planned Unit Development	PUD	“Limited to all residential, commercial, industrial, agricultural uses, and Marijuana establishments, as defined in Section 17.04.040, Definitions” (with exceptions).

¹ Adapted from Pueblo County Code, Title 17.

Definitions—Pueblo County Marijuana Establishment Land Uses²

Medical Marijuana Center	A person licensed to operate a business that sells medical marijuana to registered patients or primary caregivers, but is not a primary caregiver
Medical Marijuana Establishment	A Medical Marijuana Center, Medical Marijuana Infused-Products Manufacturing Operation, Medical Marijuana Optional Premise Cultivation Operation, or a Storage Warehouse
Medical or Retail Marijuana-Infused Product	A product infused with medical or retail marijuana that is intended for use or consumption other than by smoking, including, but not limited to edible products, ointments, and tinctures
Medical or Retail Marijuana-Infused Products Manufacturer	A person licensed to create medical or retail marijuana-infused products
Medical Marijuana Optional Premises	The premises specified in an application for a Medical Marijuana Center license with related growing facilities
Medical Marijuana Optional Premises Cultivation Operation	A person licensed to operate a business as described in the Licensing Regulations and as further described in C.R.S. 12-43.3-403
Medical Marijuana Contiguous Optional Premises Cultivation Operation	A licensed Medical Marijuana Optional Premises Cultivation Operation located in one of the following zone districts: B-4, B-1, I-1/I-2/I-3, (PUD), or R-5, within the same building or in another building on the same parcel of land where the licensed Medical Marijuana Center or Medical Marijuana-Infused Products Manufacturer is located
Medical Marijuana Non-Contiguous Optional Premises Cultivation Operation	A licensed medical marijuana cultivation operation indoors, in a greenhouse, or outside in the A-1/A-2 zone districts; indoors or in a greenhouse in the I-1/I-2 zone districts; indoors in the I-3 zone district; or in a PUD Non-contiguous means the operation is not on the same property or in the same building as a medical center or a MIP.
Retail Marijuana Establishment	A Retail Marijuana Store, a Retail Marijuana Cultivation Facility, a Retail Marijuana Product Manufacturing Facility, a Retail Marijuana Testing Facility, or a Storage

² Adapted from Pueblo County Code, Title 17, for a full list see Appendix G.

	Warehouse
Retail Marijuana Non-Contiguous Cultivation Facility	A licensed Retail Marijuana Cultivation Facility located in the A-1/A-2 Agricultural Zone Districts in a building, greenhouse, or outside cultivation; in the I-1/I-2 Industrial Zone Districts in a building or greenhouse; in the I-3 Heavy Industrial Zone District in a building; or in the Planned Unit Development (PUD) Zone District in a building, greenhouse, or outside cultivation. Non-Contiguous means the marijuana cultivation facility is not on the same property or in the same building with a Retail Marijuana Store or Retail Marijuana-Infused Products Manufacturer.
Retail Marijuana Store	A person licensed to operate a business that sells retail marijuana
Retail Marijuana Testing Facility	A person licensed to test marijuana

Chapter 1: Introduction

Twelve years after the passage of a constitutional amendment legalizing the cultivation and possession of medical marijuana in 2000, Colorado voters passed a ballot measure, Constitutional Amendment 64, also known as *The Regulate Marijuana like Alcohol Act of 2012*, making the state the first to legalize the sale, taxation, and possession of marijuana. The state also became the first to issue licenses to private entities for the cultivation and sale of retail³ marijuana to all Coloradoans and visitors over age 21. Local municipalities were given the option to develop ordinances and zoning policies regulating the development of marijuana establishments. One County, Pueblo, decided to rewrite the County's land use codes to permit cannabusiness activities by-right in many agricultural, industrial, and other zone districts.

Pueblo County Embraces the Industry

Marijuana legalization has led to a new regulated industry, while also allowing for the legitimization of activity that was already ongoing—the cultivation, processing, and sale of marijuana and marijuana products. In the wake of Constitutional Amendment 64, the marijuana customer base expanded beyond only individuals with medical permission, allowing all residents over the age of 21 as well as non-resident visitors to obtain marijuana and marijuana infused products through a commercial market. The opening of a new licensing system and the elimination of market rules on vertical integration allowed the existing medical market to evolve gradually into a new retail market, permitting business owners to specialize. Marijuana cultivators and dispensary owners became able to operate

³ Retail marijuana is also frequently called recreational marijuana. For this paper, “retail” will be used unless “recreational” is used in a quotation.

separately from each other, specializing into wholesale farms or marijuana sales operations.⁴ Other cannabusinesses combine multiple uses, such as incorporating cultivation, extraction, and processing (or a combination of two of these three) into one site.

Pueblo County previously permitted medical marijuana dispensaries and cultivation establishments and developed land use regulations and a licensing scheme. While over 200 Colorado jurisdictions have voted to prohibit medical and retail marijuana establishments and/or sales, one particular jurisdiction, Pueblo County, welcomed the new retail industry. Long known as an agricultural community with “almost always warm and sunny” weather,⁵ abundant agricultural land, low-cost indoor industrial space, and by-right zoning for marijuana uses, the County became a high-activity area for marijuana cultivation. Pueblo County is most likely the first jurisdiction in Colorado to make land use provisions considering outdoor marijuana cultivation and by-right marijuana land uses.⁶

As a result of changing marijuana policy, land use regulations, and a variety of water utility policies and regulations, a sizable marijuana market and a smaller industrial hemp market have emerged. These policy developments have greatly impacted the emergence of this rapidly growing industry in Pueblo County.

In the arid southwestern and western United States, water availability is the primary development consideration. Cannabis, like all agricultural commodities, requires water, but federal drug policy has placed additional resource constraints on the water available to cultivators. The local zoning approval process for marijuana establishments includes water as

⁴ John Ingold, “Colorado Recreational Marijuana Industry Begins Major Transformation,” *Denver Post*, June 30, 2014.

⁵ Alicia Wallace, “Perfect Economic, Weather Conditions Lure Pot Growers to Pueblo,” *The Denver Post*, August 2, 2015.

⁶ Joel Warner, “The Silicon Valley of Marijuana,” *High Country News*, August 17, 2015, <https://www.hcn.org/issues/47.14/the-silicon-valley-of-marijuana>.

a development consideration, creating a close relationship between drug policy, land development, and water supply. This thesis discusses the evolution of policies that led to a transformation of marijuana from illicit product, to a decriminalized one, to one within a medical use only context, to current: a legal crop as part of Pueblo County's and Colorado's economies.

The year 2016 marks the State of Colorado's third year of operating a licensed, legal marijuana market, other states and the federal government continue to watch policy evolve, and some states' voters are creating new markets of their own by approving legalization measures, with nationwide industry growth projected to exceed \$40 billion by 2020.⁷ Pueblo County will be viewed as a model for marijuana cultivation and production more so than as a commercial sales hub—and the current market, under local control, reflects this situation.

The main question this thesis seeks to answer is, "*How are land use and water regulations shaping the marijuana industry in Pueblo County?*" To answer this question, this thesis explores two elements: (1) the regulation of the land use control system applied to marijuana establishments, as well as (2) the regulation of water supply and distribution.

A Growing Area of Research

The implementation of Colorado Amendment 64 concluded in January 2014 with the beginning of a legal retail marijuana market for all adults in Colorado. The legal retail market reflects an expansion beyond the medical marijuana market with a newly regulated value chain. Regulations, including land use controls, control the industry and the steps that

⁷ Schepp, David. "Legal Marijuana: A \$44 Billion Business by 2020?" CBS News. March 18, 2016. Accessed July 1, 2016. <http://www.cbsnews.com/news/legal-marijuana-a-44-billion-business-by-2020/>.

constitute the value chain from producer to distributor—cultivation, extraction, and sale (see value chain, page 46).

The year 2016 marks the third year of legal retail marijuana sales, and the recent elimination of vertical integration rules has allowed for cultivator establishments to be launched separately from retail stores. Pueblo County has framed regulations, mostly through zoning, to control this industry and new land uses that arise in the area. Using interviews with local officials from the planning department, water suppliers and regulators, and cannabis cultivators, this thesis develops an understanding of the issues in the local marijuana market. As wholesale marijuana production continues to expand, the separation of large-scale marijuana from sale (dispensary) points may result in a **split** in land use regulations, with cultivation treated as an agricultural land use. This thesis is an early attempt to document land use and water allocation issues in this emerging industry and will enable the following for local leaders and policymakers elsewhere:

1. Regulate land uses for a new industry that is operating in a complex planning and regulatory environment;
 2. Understand how zoning and land use policies have affected the of legal marijuana cultivation sites and related establishments within Pueblo County;
 3. Understand the variety of water sources available for marijuana cultivations in Pueblo County, as well as the federal and state policies that govern the supply and use of water for marijuana cultivators;
 4. Understand marijuana cultivators' experiences with land use and water regulations;
- and,

5. Provide local regulators with recommendations to make the land use and water policy regulations more effective and efficient.

Research Focus & Methods

The nascent marijuana industry has emerged through state enabling mechanisms (legalization) and local regulations (land use controls). Largely local land use tools, such as zoning, have shaped Pueblo County's marijuana industry. Both state and local regulations continue to run in defiance of federal law, which classifies cannabis as a Schedule I substance. Chapter Two of this thesis provides a brief history of American cannabis policy, first highlighting the cannabis prohibition, the emergence of medical marijuana legalization, and finally, Colorado's full retail marijuana legalization. Chapter Three reviews Colorado's state-level medical marijuana policy evolution that led to the state's retail legalization as well as land use, zoning, and water supply in Colorado. Chapter Four provides an explanation of the qualitative research methods employed to understand how local restrictions and water policies are shaping the marijuana cultivation landscape in a dynamic planning environment; these methods include the following:

- Content (relational) analysis of Pueblo County zoning records (zoning compliance reviews and other documents) for marijuana establishments obtained from 2013-2015;
- Interviews with planners and individuals involved in Pueblo County's land use planning and policy development;
- Interviews with individuals involved in the management, supply, and regulation of water to Pueblo County cannabis growers; and

- Interviews with three cultivators, whose businesses are unique in a variety of ways, focusing on their experiences with land use, site development, and water allocation experiences as well as the process of acquiring a legal source of water were also explored.

The findings discussed in Chapter Five center on the implementation and local challenges for Pueblo County, including details on the development of marijuana land use ordinances and security concerns on the control cultivation, processing, and sale of a high-value crop. The current dichotomy between medical and retail marijuana markets is also discussed, along with the zoning compliance review to approve new establishments. Next, water and the future of Pueblo’s marijuana market are explored in Chapter Six, including concerns about conservation and irrigation efficiency, regulatory and policy constraints on water supply, concerns among water users, and the future of industrial hemp and the county as a cannabis research center. Chapter Seven provides suggestions for communities considering regulation marijuana in the wake of legalization, including a variety of considerations for planning as well as managing the transition from gray to regulated markets. Finally, Chapter Eight closes with recommendations about the identification of opportunities for regulatory innovation—by government, water suppliers, and industry—and about improving land use controls as well as communication and workflow.

Cannabis, Marijuana, or Hemp?

As a plant with so many uses, Cannabis has had a long, complex history. The language used to identify and describe the plant ranges from scientific to legal, as well as a variety of other formal, informal, and slang terms. Defining cannabis is as complicated as the

many relationships between humanity and the plant.⁸ There are two main uses of the *Cannabis* plant being referred to in this thesis. The main focus is the cultivation of plants containing high levels of THC. Use of the word *cannabis* refers to the plant *Cannabis Sativa L.* As both “*hemp*” and “*marijuana*” both derive from the same plant, *Cannabis*, *marijuana* refers to cannabis grown for non-industrial uses, including the flower and derivatives—products containing THC (commonly referred to as “bud,” “green,” “pot,” etc.). Hemp (also known as industrial hemp) includes low-THC cannabis plants with other cannabinoids used for medicinal and industrial applications. As Martin and Rashidian write in *A New Leaf: The End of Cannabis Prohibition*:

*While hemp is of the genus Cannabis, which also includes plants abundant in THC and other cannabinoids, plants grown for hemp are distinct because they have negligible traces of THC and are valued for their seeds and meaty and fibrous stalks. Therefore, it is accurate to call both industrial hemp and marijuana “cannabis,” but each has been given distinguishing nomenclature.*⁹

While this description is not botanically accurate, it will reflect the use of the terms as used in current federal drug policy. The acceptable use of word *marijuana* has grown to include the cannabis flower and dried plant material containing tetrahydrocannabinol, also known as THC. For the purposes of this thesis, *marijuana* will be used, not only to describe cannabis flower containing THC, but also marijuana extracts, concentrates, tinctures, and other edible products.

⁸ Chris Duvall, *Cannabis*, London: Reaktion Books, 2015, 10-25.

⁹ Alyson Martin and Nushin Rashidian, *A New Leaf: The End of Cannabis Prohibition*, New York: 2014, 36.

Chapter 2: Drug Policy Evolution

Cannabis is most widely recognized for its psychoactive and medical uses. Throughout history the plant had a variety of other uses, including as a textile, food, and energy source. Looking to a future beyond the ongoing drug war, cannabis may be used for building construction, paint, cosmetics, domestic fuel, and a variety of other non-psychoactive purposes.¹⁰ This chapter briefly explores the process by which cannabis and the use of marijuana became criminalized in the United States, and the efforts to move toward a new paradigm—legalization and regulation of cannabis, including the regulation of land use for a new industry.

Prohibiting Cannabis

In the 1600s, cannabis was most likely brought to the West by British colonial explorers and was used mainly as hemp for fibers and oils.¹¹ Further, the product was a vital part of the colonial economy prior to the American Revolution and remained part of the American economy for decades.¹²

Over time, cotton replaced hemp for fiber products, and marijuana became the larger product use of cannabis. At the turn of the twentieth century, prohibitionist ideology had expanded with state-level legislative efforts to ban alcohol and drugs. Between 1911 and 1933, over thirty states changed laws, restricting recreational cannabis cultivation and permitting only industrial and medical growing.¹³

The 1914 Harrison Narcotics Tax Act, a federal law designed to go after opium cultivation and distribution, placed a tax on opium and coca derivatives sold for non-medical

¹⁰ Doug Fine, *Too High to Fail: Cannabis and the New Green Economic Revolution*, Gotham Books, New York: 2012, 5.

¹¹ Martin and Rashidian, *A New Leaf: The End of Cannabis Prohibition*, 36.

¹² *Ibid*, 37.

¹³ *Ibid*, 38.

uses. Based on the first international drug control treaty, the *1912 International Opium Convention at The Hague*, the Harrison Narcotics Tax Act law did not initially include cannabis, but taxation and prohibition of cannabis would eventually happen. Horror stories of “loco weed” were perpetuated through news articles for more than thirty years during the era of state-level prohibition until the passage of the 1937 Marihuana Tax Act.

When Franklin Delano Roosevelt was elected President in 1932 and his New Deal policies were established, the federal government grew significantly. Harry Anslinger, the director of the Federal Bureau of Narcotics (FBN), saw an opportunity to implement a federal ban on cannabis.¹⁴ Anslinger lobbied various congressional committees to ban cannabis, using hyperbole and engaging in fear mongering. The main opposition was Dr. William C. Woodward, the legislative counsel of the American Medical Association. Woodward claimed cannabis had a variety of therapeutic uses while noting the decline in medicinal use was due to “variability of formulations.” He also foresaw the potential for a “war on drugs” to be a failure, stating:

*Marihuana grows wild along railroad tracks, along highways...on immense farms and ranches, forest land and places of that sort... The federal government could never determine where this plant was growing...*¹⁵

What followed were two attempts to “tax the plant out of existence”—the 1934 Uniform State Narcotic Drug Act, and the 1937 Marihuana Tax Act—with the latter placing annual

¹⁴ Steve DeAngelo, *The Cannabis Manifesto: A New Paradigm for Wellness*, Berkeley: North Atlantic Books, 2015, 30.

¹⁵ *Ibid*, 31.

\$50 taxes on manufacturers, compounders, and importers. Other annual taxes were placed on growers¹⁶ (\$25), dealers (\$15) and researchers (\$1).¹⁷

The FBN director continued to promote prohibition with statements on “deviancy,” which were frequently racially motivated, such as: “colored students at the University of Minnesota partying with white female students, smoking marijuana and getting their sympathy with stories of racial persecution. Result: pregnancy.” These came in response to commissioned government reports, such as the 1939 LaGuardia report led by then-New York Mayor Fiorello LaGuardia. In short, those findings concluded, “...the publicity concerning the catastrophic effects of marihuana smoking in New York City is unfounded.”¹⁸

Decades passed, and the federal government, as well as foreign governments, repeatedly came to the conclusion with other reports following *LaGuardia* that prohibition was not working. By the late 1960s, international evidence indicated cannabis prohibition was a failure. Regardless, the 1970 Controlled Substances Act resulted in a severe crackdown on all illegal drugs, placing cannabis in Schedule I alongside heroin, amphetamines, and LSD, and in 1973, the Drug Enforcement Administration was subsequently created.

With cannabis listed as a Schedule I substance since 1970, various attempts were mounted to end prohibition over the following decades some with support from such unlikely voices as President Jimmy Carter, who called for nationwide decriminalization, along with Drug Enforcement Agency Administrative Law Judge, Francis Young.¹⁹ The most successful reform initiatives have been undertaken through ballot measures and constitutional amendments, which led to decriminalization early on, followed by the rise of state medical

¹⁶ *When adjusted for inflation to 2016 dollars, the annual \$25 grower tax would cost over \$420.*

¹⁷ Martin and Rashidian, *A New Leaf: The End of Cannabis Prohibition*, 40.

¹⁸ Steve DeAngelo, *The Cannabis Manifesto: A New Paradigm for Wellness*, 33.

¹⁹ *Ibid*, 36.

marijuana programs and, more recently, complete legalization in defiance of standing federal law.

Decriminalization and the Rise of Medical Marijuana

Decriminalization was the first response to the Controlled Substances Act and Nixon’s “War on Drugs,” with the initial “flouting” of drug laws throughout the 1970s and the rise of NORML (the National Organization for the Reform of Marijuana Laws). By the mid-1970s, Americans became more lenient toward marijuana laws, with Oregonians and Californians becoming the first voters to decriminalize, reducing marijuana possession to a minor violation—merely a slap on the wrist.²⁰

Legalization, as the policy antithesis of prohibition, “avoids the costs of prohibition—loss of liberty, criminal enterprise, and the need for enforcement,” but unlike decriminalization, legalization treats cannabis like any other product, with regulations placed on the production, distribution, retail sale, possession, and use.”²¹ Legalization began occurring in several states with the emergence of medical marijuana programs. To varying degrees, a patchwork of legal, commercial, and “gray market” distribution (home caregivers or collectives) has emerged over the past twenty-plus years. The evolution of early medical marijuana programs started prior to any state’s legalization mechanism, operated by the leading force behind prohibition—the federal government. A limited number of cannabis users received a supply of medical marijuana from the federal government starting in the 1970s. The program ended during the 1980s, but some grandfathered patients continue to

²⁰ Martin and Rashidian, *A New Leaf: The End of Cannabis Prohibition*, 49.

²¹ Jonathan Caulkins, Angela Hawken, Beau Kilmer, and Mark A. R. Kleiman, *Marijuana Legalization: What Everyone Needs to Know*, New York: Oxford University Press, 2012, 107.

receive medical marijuana.²² This program did not have the significance of state voter-initiated medical marijuana programs in that it lacked a commercial market with regulation as developed in other states.²³

In 1996, California residents became the first United States citizens to have access to medical marijuana after California Proposition 215 passed. The *Compassionate Use Act* was a one-page proposal to permit patients, with their doctor's approval, to grow their own marijuana for personal medical use or obtain it from a caregiver growing for them.²⁴ Subsequent laws (or the lack thereof) led to a chaotic marijuana regulatory regime throughout California, which operated largely as a gray market with municipal regulations running the regulatory show until fall 2015 with the passage and signing of three bills comprising the *California Medical Marijuana Regulation Safety Act*.²⁵

Voters in other states approved legalization initiatives, starting with Alaska, Oregon, and Washington in 1998, Maine in 1999, and Nevada and Colorado in 2000. The Colorado electorate approved a ballot measure, Constitutional Amendment 20, also known as the *Colorado Medical Use of Marijuana Initiative*.²⁶ For the first time in U.S. history,²⁷ a voter-approved constitutional amendment authorized medical marijuana use for “persons suffering from debilitating medical conditions” and also authorized a state government to establish laws governing the distribution of medical marijuana while determining qualifying

²² *4 Americans Get Medical Pot from the Feds*, CBS News, September 28, 2011, accessed March 4, 2016.

²³ Martin and Rashidian, *A New Leaf: The End of Cannabis Prohibition*, 57.

²⁴ *Ibid.*, 62.

²⁵ Hillary Bricken, *California's New Medical Marijuana Laws: What You Need to Know Now*, Canna Law Blog (blog), October 11, 2015, <http://www.cannalawblog.com/californias-new-medical-marijuana-rules-what-you-need-to-know-now/>

²⁶ Martin and Rashidian, *A New Leaf: The End of Cannabis Prohibition*, 63.

²⁷ William Breathes, “The History of Cannabis in Colorado...or How the State Went to Pot,” *Westword*, November 1, 2012.

conditions.²⁸ Although the legal framework of a medical marijuana program was established in the Colorado State Constitution, regulation of a commercial distribution system was not part of the Initiative.²⁹

Authorization under Amendment 20 included an affirmative legal defense to possess marijuana with a state-issued Medical Marijuana Registry Identification Card allowing for: “no more than two (2) ounces of a usable form of marijuana; and not more than six (6) marijuana plants, with three (3) or fewer being mature, flowering plants that are producing a usable form of marijuana.”³⁰ Patients and their primary caregivers were legally permitted to cultivate their own marijuana and possess it for themselves. In the absence of a legal, regulated market, various ‘caregiver grows’ popped up and began to provide “cannabis to large numbers of patients through delivery services or discreet retail locations.”³¹ At the suggestion of the United States’ Federal Drug Enforcement Administration, the Colorado Department of Public Health and the Environment issued a rule limiting caregivers from providing medical marijuana to no more than five patients. Sensible Colorado, an organization that advocated for drug policy reform, sued the State over the five-patient limit in 2007 and won. Two years later, the State Department of Public Health and the Environment once again attempted to limit caregivers to five patients. After hundreds of patients and advocates commented, the Board voted against the limit, paving the way for a legal “green rush” of regulated medical marijuana centers.³² “Gray-market” dispensaries quickly proliferated throughout Colorado and continued to do so without guidance from the State. At the same time, home caregivers continued to operate in a questionable legal area.

²⁸ Colo. Const. art. 18 § 14.

²⁹ “HB 10-1284 and SB 10-109,” *Americans for Safe Access*, accessed February 2, 2016.

³⁰ “History of Colorado Medical Marijuana Laws,” *Sensible Colorado*, accessed February 3, 2016.

³¹ *Ibid.*

³² *Ibid.*

The Colorado legislature was the first to open a legal, commercial market and is widely noted in media and literature for doing so. Ten years after the passage of Colorado Amendment 20, two regulatory bills were passed by the legislature. They were described as being, “so strict that dozens of noncompliant dispensaries closed and the remaining thousand or so shops were forced to track their product from seed to sale.”³³ Colorado quickly became a leader in medical marijuana *innovation* and *regulation*, with new provisions bringing medical marijuana from a gray market into a legal and tightly regulated one. These provisions included:

- **Local option:** a mechanism permitting local municipalities to implement bans or moratoria on establishing or operating cannabis cultivations or medical dispensaries (among other land use controls);
- **Vertical integration:** a state requirement that 70% or more of cannabis sold must be from that business’s licensed cultivation (this resulted in many businesses restructuring and adding on- or off-site cultivations);
- **Product tracking:** computer monitoring of cannabis products from “seed to sale”; and,
- **Pesticide labeling:** cannabis products (flower, extractions, and edibles) were required to be labeled for pesticides and additives.³⁴

Some restrictions, such as vertical integration requirements, were created as a response to fears from law enforcement and cannabis opponents. These regulations, designed to keep product moving within a single organization from cultivation to sale, became a general trend in the industry, including in Colorado. This model was used with intent to limit black market

³³ Martin and Rashidian, *A New Leaf: The End of Cannabis Prohibition*, 116.

³⁴ *Ibid.*

marijuana.³⁵ Critics of this system, however, highlight the ease of occurrence for product diversion and criminal activity in a mandatory vertically integrated system, noting a segmented value chain with licensed actors as an alternative.³⁶ Mandatory vertical integration ended in Colorado during retail sales implementation. Another control mechanism frequently employed during this era, although not potentially statewide, included mandatory indoor growing. Challenges and limitations to mandatory (or even optional) indoor cultivation include heavy electricity consumption which contributes to air pollution. Marijuana grown outdoors or in a greenhouse can cost significantly less and still necessitates security needs including fences, cameras, dogs, guards, and other protections.³⁷

The state's newly created Medical Marijuana Enforcement Division was tasked with issuing state licenses to medical marijuana centers and cultivators.³⁸ Funding for this new department came from medical marijuana sales and excise taxes. Colorado's medical "green rush" was then in full swing, and new cannabusinesses were established throughout the state. Federal action, notably the Justice Department's *Ogden Memorandum*, facilitated these new developments.

The *Ogden Memorandum*

In 2009, United States Deputy Attorney General David W. Ogden issued a memorandum to United States Attorneys with the subject "Investigations and Prosecutions in

³⁵ Steve DeAngelo, *The Cannabis Manifesto: A New Paradigm for Wellness*, 120-121.

³⁶ *Ibid*, 121.

³⁷ *Ibid*, 120.

³⁸ Martin and Rashidian, *A New Leaf: The End of Cannabis Prohibition*, 116.

States Authorizing the Medical Use of Marijuana.”³⁹ This document, now referred to as the *Ogden Memorandum*, recognized the establishment of medical marijuana programs in a handful of states.⁴⁰

The federal government’s main concern was to apply “uniform focus to federal investigations and prosecutions in these States on core federal enforcement priorities...” while claiming a commitment to the continued enforcement of the Controlled Substances Act (Ogden Memorandum). The memorandum advised federal attorneys against prosecuting individuals using marijuana to treat serious illnesses such as cancer. A series of priorities and enforcement mechanisms were established, and activities not in “clear and unambiguous compliance with applicable state law [that] may indicate illegal drug trafficking activity of potential federal interest.”⁴¹ These activities included sale to minors, violations of state medical marijuana laws or regulations, possession of other controlled substances, violence, and unlawful possession or use of firearms.⁴²

After *Ogden*, medical marijuana in Colorado and others states saw a rapid expansion. As a result of decreased risk of federal prosecution, investors saw the economic opportunity to enter a new industry. This led to a rise in cultivation rooms and outdoors sites as well as for-profit commercial cannabis dispensaries with cultivation rooms attached onsite (contiguous or integrated operations). The rise in these led to a drop in prices, where “Colorado medical marijuana consumers often paid one-third to one-half less per eighth of an

³⁹ David W. Ogden, “Memorandum for Selected United States Attorneys on Investigations and Prosecutions in States Authorizing the Medical Use of Marijuana,” U.S. Department of Justice (memorandum), Washington: U.S. Department of Justice, 2009.

⁴⁰ *Ibid.*

⁴¹ *Ibid.*

⁴² *Ibid.*

ounce.”⁴³ The key characteristics of *Ogden* would become the basis of the Cole Memorandum, issued four years later.

The Era of Full Legalization

Early attempts to fully legalize cannabis in Colorado began with an unsuccessful Denver city ordinance removing penalties for adult possession and use⁴⁴ as well as an unsuccessful statewide ballot initiative. On Election Night in 2012, legalization supporters in Colorado and nationwide watched election returns on Colorado’s Amendment 64 ballot measure, alongside Washington’s Initiative 502. Incumbent President Barack Obama won Colorado with 51% of the vote, while Colorado’s Amendment 64 was more popular, passing with 55% of the vote.⁴⁵

On December 10, 2012, Colorado Governor John Hickenlooper proclaimed Amendment 64 part of the State Constitution and signed an executive order calling for further action to begin implementation on a short timeline as set by the Amendment’s authors. The State government was tasked with establishing a task force; the mandate for the Amendment 64 Implementation Task Force was to “identify the legal, policy, and procedural issues that must be resolved, and to offer suggestions and proposals for legislative, regulatory, and executive actions that need to be taken, for the effective and efficient implementation of Amendment 64.”⁴⁶ Over the course of three months, the task force worked with various stakeholders including “representatives from the executive and legislative branches of state government, the Amendment 64 campaign, the medical marijuana industry,

⁴³ Peter Hecht, *Weed Land: Inside America’s Marijuana Epicenter and how Pot Went Legit*, Berkeley: University of California Press, 2014, 163.

⁴⁴ Martin and Rashidian, *A New Leaf: The End of Cannabis Prohibition*, 178.

⁴⁵ Peter Hecht, *Weed Land: Inside America’s Marijuana Epicenter and How Pot Went Legit*, 207.

⁴⁶ Jack Finlaw and Barbara Brohl, “Task Force Report on the Implementation of Amendment 64: Regulation of Marijuana in Colorado,” Office of the Governor, State of Colorado, Denver: State of Colorado, 9.

marijuana consumers, the criminal defense bar, the Colorado Attorney General's Office, Colorado's district attorneys, law enforcement, academia, the medical community, employers, employees, and Colorado's cities and counties"⁴⁷ to develop first-of-its-kind policies for the implementation of the world's first legal retail marijuana market,

The new law's language called for a scheme that regulated the grow operations, infused product manufacturers, retail stores, and laboratory testing facilities, while requiring the ability to apply for a license to be launched by October 2013. State agencies developed emergency regulations to permit the existing medical marijuana infrastructure to enter the "adult-use" marijuana market for the first time. Policy development continued into early 2014, when initial licenses began to be issued for retail marijuana establishments throughout the state.⁴⁸

The Cole Memorandum

In mid-2013, in the midst of post-legalization lawmaking in both Colorado and Washington State, the U.S. Department of Justice (DOJ) issued the *Cole Memorandum*, a follow-up to the *Ogden Memorandum*. The memo highlighted the federal government's traditional reliance on state authorities to enforce narcotics laws. In light of state-level legalization enactments, the Justice Department used *Cole* to demonstrate its expectation that "states and local governments that have enacted laws authorizing marijuana-related conduct will implement strong and effective regulatory enforcement systems that will address the threat those state laws could pose to public safety, public health, and other law enforcement

⁴⁷ David Blake and Jack Finlaw, "Marijuana Legalization in Colorado: Learned Lessons," Cambridge: Harvard Law & Policy Review, 2014, 365-366.

⁴⁸ *Ibid*, 367.

interests.⁴⁹ The memo directs federal prosecutors to allow marijuana cultivation, processing, and sale in accordance with state law, while focusing on eight enforcement priorities for federal offenses, such as drug trafficking or firearm offenses. Regulations to address these law enforcement concerns were established at both the State and local level. While the *Cole Memorandum* is the current Justice Department guiding enforcement of the Controlled Substances Act in states with varying degrees of legalization, marijuana remains illegal under federal law.

Regulatory Initiatives and Other Developments

Since the first voter approved ballot measures for adult-use retail cannabis passed in 2012, numerous other states, including Alaska and Oregon, have opened new cannabis markets, either for medical or adult use. In Alaska, the newly established Marijuana Control Board completed rulemaking and has been accepting applications for marijuana licenses since February 2016,⁵⁰ while local authorities set restrictions and consider local option bans.⁵¹ In Oregon, full retail sales began months ahead of schedule after the passage of emergency laws permitting medical dispensaries to sell to a retail market. The Oregon Liquor Control Commission will assume control over legal retail sales later in 2016, and the licensing and regulatory system will evolve.⁵²

⁴⁹ James M. Cole, "Memorandum for All United States Attorneys: Guidance Regarding Marijuana Enforcement," U.S. Department of Justice (memorandum), Washington: U.S. Department of Justice, 2013.

⁵⁰ "Alaska - MPP," *Marijuana Policy Project*, last updated February 29, 2016, <https://www.mpp.org/states/alaska/>

⁵¹ Daniella Rivera, "Looking Back: Alaska's First Year of Legal Marijuana," *KTVA*, accessed March 1, 2016, <http://www.ktva.com/looking-back-alaskas-first-year-of-legal-marijuana-452/>

⁵² Sean Williams, "Legal Marijuana in Oregon Comes with a Surprising Twist," *The Motley Fool*, accessed March 1, 2016. <http://www.fool.com/investing/general/2016/02/07/legal-marijuana-in-oregon-comes-with-a-surprising.aspx>

In addition to Colorado's legalization of marijuana, provisions in Amendment 64 allowed for the cultivation, processing, and sale of industrial hemp. Regulation of marijuana's non-psychoactive relative is managed by the Colorado Department of Agriculture⁵³ with permission from the Drug Enforcement Administration to import seed. Currently, hemp is legal in roughly half the states, yet federal legislation to remove marijuana's low-THC cousin from the Controlled Substances Act is stuck in Congress, although supporters and legislators hope legalization will occur soon.⁵⁴

The November 2016 election will be key in many states where voters face adult use legalization ballot questions. The national Marijuana Policy Project projects adult-use legalization in Arizona, California, Maine, Maryland, Massachusetts, Montana, Nevada, New Jersey, Vermont, and Rhode Island, and potentially other states, by 2020.⁵⁵ Other states have approved medical marijuana ballot measures or are collecting signatures to do so.

Some research has examined the outcomes of legalization implementation, including analysis of crime and revenue. One report focusing on the first few years of Colorado's implementation, "Marijuana Legalization in Colorado: Early Findings," was published in March 2016, with results including a 46% statewide decrease in marijuana-related arrests.⁵⁶ The report, however, also highlights the largest category of marijuana-industry related crime incidence rates (63%) in the Denver area, burglary, and although this is not a statewide figure for industry-related crime, it highlights the security challenges of cultivating, processing, and

⁵³ Nelson Harvey, "Colorado's First Legal Hemp Harvest Since 1957 is Underway," *High Country News*, October 2, 2014, <https://www.hcn.org/articles/colorados-first-legal-hemp-harvest-since-1957-is-underway>

⁵⁴ "What is Hemp's Current Status in the United States?" *Leafly*, accessed March 24, 2016, <https://www.leafly.com/news/headlines/what-is-hemp-current-status-in-the-united-states>

⁵⁵ Katy Steinmetz, "Report Predicts 18 States will Legalize Pot by 2020," *Time*, January 26, 2015, accessed February 28, 2016, <http://time.com/3682969/pot-legalization-2020/>

⁵⁶ Jack K Reed, "Marijuana Legalization in Colorado: Early Findings: A Report Pursuant to Senate Bill 13-283," *Colorado Department of Public Safety* (report), March 2016, 5.

selling marijuana.⁵⁷ Between 2014 and 2015, statewide revenue from licenses, fees, and taxes increased by 77% from \$76,152,468 to \$135,100,463.⁵⁸ Finally, at the end of 2015, there were over 2,500 licensed marijuana businesses in Colorado, with 70% concentrated in four counties: “Denver (1,112), El Paso (308), Pueblo (202), and Boulder (169).”⁵⁹

The states whose voters have approved retail marijuana regulatory regimes (Colorado, Washington, Alaska, and Oregon) already had existing medical marijuana programs to some degree—marking an evolution in marijuana policy as opposed to a single overnight “liberation” measure through legalization. The transition from standalone medical marijuana to retail legalization on top of medical marijuana is occurring in different ways on a state-by-state basis. As a result, land use considerations, particularly in the area of nuisance and controlling unwanted local land uses, remain a concern. Very little policy research has been conducted into the trends, regulatory regimes, and implementation progress between existing medical marijuana and new retail marijuana regimes on a state-by-state basis as of early 2016. Additionally, there is a lack of literature considering land use controls for retail marijuana establishments (cultivation, processing, and sale points). Previous research has been conducted focusing on land use and zoning for the medical marijuana industry, including journal articles and master’s theses, which will be discussed more in the next chapter.

⁵⁷ Ibid.

⁵⁸ Ibid, 9.

⁵⁹ Ibid, 5-8.

Chapter 3: Land & Marijuana Regulation

As marijuana legalization expands to create new markets, communities face a spatial challenge: how to control cultivation, processing, and distribution of marijuana. With the continued expansion of medical marijuana programs, and the more recent growth of retail cannabis, communities have turned to basic land use controls, such as zoning, to regulate the nascent industry. This chapter reviews the background of zoning and land use controls in the United States and then explores existing literature focused on the marijuana industry, including land use regulations, issues with irrigation, and agricultural policy.

The Development of Zoning

Restrictions on land are rooted in zoning, the most basic tool to regulate land. In the 1920s, the U.S. Department of Commerce, under Secretary Herbert Hoover, proposed two model laws in the form of enabling acts covering both planning and zoning. Although land use regulations evolved over the years, the basic structure of Standard State Zoning Enabling Act (SZEA) remains the same.⁶⁰ The SZEA gave states guidance on how to permit municipalities (i.e., cities and counties) to establish and enforce zoning ordinances.

Typically, state zoning enabling legislation delegates power to communities to create zoning maps and then divide the jurisdiction into zone districts. Upon the creation of zone districts, zoning ordinances could be created to “provide land use and site development

⁶⁰ “Standard State Zoning Enabling Act and Standard City Planning Enabling Act,” *American Planning Association*, accessed February 20, 2016, <https://www.planning.org/divisions/planningandlaw/propertytopics.htm>

regulations.”⁶¹ The main policy objective of zoning “is to avoid or minimize disruptive land use patterns involving incompatible land uses.”⁶²

Zoning and land use ordinances typically follow a common pattern with two main components: a zone map and text. While the map illustrates the division of land uses within the community (or county), the text that follows has specific descriptions and serves two main functions: establishing both general rules for the district and enumerating the permitted land uses within the defined district. In addition to the permitted land uses, subdivision regulations set dimensions on lot or backyard size, building height, setbacks, and other development characteristics.⁶³

The Zoning Ordinance

Zoning ordinances follow a template similar to other legal tools, with a title, authority and purpose set first. This first section identifies the legal authority the plan falls under (typically the state) and also identifies the community’s intent for instituting zoning policies. Next, a “general provisions” section outlines the geographic area being regulated. A breakdown of zoning districts follows, which typically includes common zones such as agricultural, commercial, industrial, institutional, and residential districts. Sometimes, zones are broken down by density into sub-zones, such as light industrial, single-family, light agricultural, etc. Overlay districts for conservation and hazard mitigation are frequently outlined along with district definitions.

⁶¹ Gary Hack, Eugenie L. Birch, Paul H. Sedway, and Mitchell J. Silver, *Local Planning: Contemporary Principles and Practice*, Washington: International City/County Management Association, 2009, 287.

⁶² Michael Chandler and Gregory Dale, “Zoning Basics,” *Planning Commissioners Journal* number 42, 2001, 13-17.

⁶³ *Ibid*, 15.

Along with the zone district descriptions, permitted uses and development requirements are typically listed. Some uses are listed as being “by-right,” which means they are permitted within the zone as long as they follow the listed requirements. Other land uses require conditional use permits or other special permissions.⁶⁴

Zoning codes often also include impact regulations and enforcement mechanisms. Some zoning ordinances have separate sections dedicated to impact restricts, while others are listed in each zone’s requirements. These may include parking or landscape standards, historic preservation requirements, or conservation measures. The administration and enforcement section identifies those involved in the ordinance’s administration—typically the elected local body, the appointed local zoning board of appeals or board of adjustment, the zoning administrator, and the planning commission. Also, procedures to amend the ordinance are spelled out.⁶⁵

The participants involved in zoning decision-making contribute through a variety of activities. The local body is tasked with adopting the ordinance and approving text and map amendments. Appointed planning commissions are typically advisory boards, tasked with advising the legislative body on comprehensive plans and zoning ordinances. Planning commissions can also participate in quasi-judicial activities, such as reviewing subdivision applications, site plans, and other developments. Zoning administrators typically interpret and administer zoning ordinances, while appointed zoning boards of appeals or adjustment are authorized to hold hearings, grant variances, and hear appeals of zoning administrators’ decisions.⁶⁶

⁶⁴ Ibid, 17.

⁶⁵ Ibid, 17.

⁶⁶ Gary Hack, et. al., *Local Planning: Contemporary Principles and Practice*, 290.

Other Zoning Tools

Land use and zoning tools extend beyond districts and permitted uses, and some are more flexible and responsive to development trends and needs. Unified Development Ordinances (UDOs), performance requirements, incentive zoning, overlay zones, and floating zones are a few examples of flexible zoning techniques utilized by communities. Unified Development Ordinances are local regulatory instruments that streamline “traditional zoning and subdivision regulations, along with other desired city regulations, such as design guidelines, and floodplain and stormwater management, into one document.”⁶⁷ The ordinance lists all required permits, workflows, regulations, and development process steps in one document to make the process easier for the public, developers, and others.⁶⁸

Performance standards are alternatives to traditional zoning that regulate development by determining development goals that are achieved through regulation, instead of regulating specific activities that meet goals. Performance requirements do not typically restrict specific uses but instead permit any use that meets the set standards.⁶⁹ Performance indicators are typically designed to “indicate how well a use relates to its site, its neighbors, and the community infrastructure.”⁷⁰

Incentive zoning allows developers and municipalities to exchange public benefits for development permissions. Incentive zoning allows developers to “develop in a way that ordinarily would not be permitted in exchange for a public benefit that would not otherwise be required.”⁷¹ Municipalities allow for noncompliant uses or dimensions (floor height,

⁶⁷ “Property Topics and Concepts,” *American Planning Association*, accessed February 20, 2016, <https://www.planning.org/divisions/planningandlaw/propertytopics.htm>

⁶⁸ *Ibid.*

⁶⁹ *Ibid.*

⁷⁰ Gary Hack, et. al., *Local Planning: Contemporary Principles and Practice*, 289.

⁷¹ “Property Topics and Concepts,” American Planning Association.

limited setback, etc.) in exchange for public goods such as additional open space, low-income housing, or other benefits.⁷²

Overlay zones include special districts applied over established zoning districts, with requirements that function in conjunction with existing standards. Overlay zones typically add additional criteria to protect geographic or cultural features such as historic sites, floodplains, or waterfronts. Overlay zones may also be utilized to promote specific development types such as mixed-use development or high-density transit corridors.⁷³

Similarly, floating zones are a special type of zoning district that “delineates conditions which must be met before that zoning district can be approved for an existing piece of land.”⁷⁴ These zones are typically added as text amendments to zoning codes prior to being added to the zoning map. When a specific development is approved, the property is rezoned and the zone no longer “floats.”

One commonly utilized floating zone is the Planned Unit Development (PUD). PUDs allow for developers to deviate from existing zoning restrictions while fulfilling other established planning criteria. Planned Unit Developments are frequently written into local zoning codes to promote or incentivize certain land use goals, such as open space protection or affordable housing. Although land set aside for specific development projects may be designated as a PUD from the outset, this floating zone is typically applied through a rezoning process, with the specific site ordinance tied to design guidelines. These design

⁷² Ibid.

⁷³ Ibid.

⁷⁴ Ibid.

guidelines typically cover land uses to be permitted on site and frequently include mixed-uses.⁷⁵

Zoning in Colorado

According to the Colorado Department of Local Affairs, land use codes are planning implementation tools. Land use codes in Colorado might include “zoning regulations, subdivision regulations, annexation policy, oil and gas regulations, impact fees, public hearing processes, fence and sign permitting, and more.”⁷⁶

Colorado’s enabling legislation for planning and zoning, the Colorado Planning and Zoning Enabling Act, was passed in 1939.⁷⁷ This law permits three different approaches to land use regulation: by districts within counties (municipalities), by individual counties, and by groups of counties. This act also permitted County planning and zoning in *county territory not incorporated into a municipality*, a basis for countywide planning throughout the state.⁷⁸

In 1974, Colorado passed a new law enabling land use control, the *Local Government Land Use Control Enabling Act*. The act defined localities, consolidated city-county jurisdiction as well as counties, and enabled other types of jurisdictions. This act was developed to “provide for planned and orderly development within Colorado” by allowing local governments to “plan for and regulate the use of land within their respective jurisdictions”⁷⁹ as well as utilize impact fees and other land use regulatory tools to encourage

⁷⁵ “Tool: Planned Unit Development (PUD),” *Puget Sound Regional Council*, accessed February 15, 2016, <http://www.psrc.org/growth/housing/hip/alltools/pud/>

⁷⁶ “Land Use Codes,” *Colorado Department of Local Affairs*, accessed February 24, 2016, <https://www.colorado.gov/pacific/dola/land-use-codes>

⁷⁷ George Wehrwein, “The Colorado Planning and Zoning Enabling Act,” *The Journal of Land & Public Utility Economics*, Vol. 15, No. 4, Madison: University of Wisconsin Press, 1939, 483

⁷⁸ *Ibid.*

⁷⁹ Colo. Rev. Stat. § 29-20.

or discourage development. This law enabled jurisdictions to develop mandatory zoning in unincorporated areas, which is the majority of the land in Pueblo County.

Land Use Planning in Response to Marijuana Legalization

Very little literature examines the local regulation of marijuana establishments, especially since the first wave of retail legalization occurred in 2012. Prior to voter approval in Colorado and Washington, limited land use literature examined local marijuana regulation in a medical-only context. Some research predating retail legalization does examine medical marijuana dispensary restrictions, environmental justice considerations for dispensaries in Denver, and their relationships to other locally unwanted land uses (“LULUs”). Additionally, master’s theses in the areas of planning and public policy have examined local regulation of the medical only marijuana industry in California⁸⁰ and the implementation of retail marijuana sales in Washington State.⁸¹ These theses, however, were only policy analyses and lacked cultivator input.

Salkin and Kansler discuss the variety of approaches localities use to address land use issues stemming from marijuana cultivation and distribution, since medical marijuana state statutes typically fail to address these local concerns.⁸² The article reviews the variety of state-level statutory mechanisms allowing for medical marijuana acquisition and the land use considerations for each. This includes the three main types of medical marijuana source:

⁸⁰ Samantha M. Bryant, “Public Policy Assessment Of Local Government Approaches To Implementing California’s Medical Marijuana Laws,” (master’s thesis), Humboldt State University, 2012.

⁸¹ Kali F. Hollenhorst, “Planning Effectively for Legalized Recreational Marijuana: An Assessment of Community Land Use Ordinances in Washington State,” (master’s thesis), University of Washington, 2014.

⁸² Patricia E. Salkin, Zachary Kansler, “Medical Marijuana Zoned Out: Local Regulation Meets State Acceptance and Federal Quiet Acquiescence,” *Drake Journal of Agricultural Law*, volume 16, 2011, 296.

personal home grow (marijuana grown by the patient), by a private caregiver (also known as a home caregiver, growing at their own residence or elsewhere), or obtained through a licensed medical marijuana dispensary. The article summarizes and explains land use tools at work in regulating this emerging industry without making strategy or policy recommendations. Three different categories of land use regulations are defined and explained: preemption, nuisance law, and zoning, with many examples from California and other states.⁸³ These are summarized in *Figure 1* on the following page.

Two widely used mechanisms, prohibitions and moratoria, result in a local absence of medical marijuana, either permanently or on a short-term basis. Some localities choose to ban marijuana operations outright, either by citing federal drug policy as a factor preempting state law⁸⁴ or by passing prohibitions on marijuana land uses in all zone districts after determining that marijuana operations do not fit in the community.⁸⁵ Preemption has been used as a justification for bans, with marijuana's federal Schedule I classification superseding state medical (and now retail) legalization.⁸⁶ Moratoria, on the other hand, are identified as a mechanism used by planners and municipal officials to "buy time to study the phenomena and develop appropriate and adequate regulations" to new or controversial land uses,⁸⁷ keeping in mind that medical (and now retail) dispensaries, as well as marijuana cultivations and processing facilities, can be classified as categorically unique land uses. Moratoria have been instituted for varying spans of time, while nuisance law has been applied in some

⁸³ Ibid, 298.

⁸⁴ Ibid, 298

⁸⁵ Ibid, 302.

⁸⁶ Ibid, 299-300.

⁸⁷ Ibid, 301.

communities (i.e., some municipalities have crafted ordinances that prohibit nuisance uses) with federal or state crimes constituting these uses.⁸⁸

Regulatory Tool⁸⁹	Description	Example
Zoning districts	Commercial marijuana cultivations are frequently limited to agricultural and/or industrial zone districts.	Industrial zoning districts
Zoning definitions	Definition of specific land uses	“Medical marijuana dispensary”
Distance restrictions	Statutory or local ordinance restrictions (buffers) separating establishments from schools, churches, daycare centers, etc. Many municipalities have enacted 1,000-foot buffers.	New Mexico caregiver grows and licensed nonprofit producer establishments may not be less than 300 feet from schools, churches, or daycare centers.
Home occupation rules	Characteristics of a residential dwelling must be maintained to ensure personal cultivation is not a cover for large-scale operation.	Some municipalities require home growers to register with local government.
“By-right” zoning permission	Permitting marijuana establishments as “by-right” land uses in certain zones or unincorporated areas	No zoning hearing needed for specific uses in designated areas of some jurisdictions.
Licensing requirements and restrictions	Approval is contingent upon fulfilling requirements, such as background check, security protocol review, public hearing, payment, and/or site inspection.	Some Colorado license types: <ul style="list-style-type: none"> • Medical Marijuana (MMJ) Center • MMJ Optional Premises Cultivation • MMJ Infused Product Producer
Limits on use permits (caps)	Citywide limit on dispensaries, or limited number of locations within specific districts of a city	Los Angeles, CA: 70 license limit for new licenses issued after 2007
Sign requirements	Rules regulating external signage or advertisements	Size rules, ban on misleading, deceptive, or youth-oriented signage
Cultivation size limits	Limits on square footage or plant count	Mendocino County, CA: 25 plant count (indoor or outdoor) prior to becoming a nuisance land use

Figure 1. Summary of Salkin and Kansler’s Regulatory Tools

⁸⁸ Ibid, 301.

⁸⁹ (Adapted from) Patricia E. Salkin, Zachary Kansler, “Medical Marijuana Zoned Out: Local Regulation Meets State Acceptance and Federal Quiet Acquiescence,” 301-318.

Zoning, which typically reflects the police power of state and local governments, is identified as the most widely used power to regulate marijuana establishments. The toolbox of commonly used regulatory requirements includes zoning districts and definitions, distance restrictions (buffers and setbacks set by state law or local ordinance), home occupation rules, “by-right” permission, licensing requirements and restrictions, limited numbers of use permits, sign requirements, agricultural uses, and cultivation size limits (by state or local restriction).⁹⁰

In addition, Salkin and Kansler pose questions surrounding the legality of home occupation cultivations and the classification of cannabis as an agricultural crop. The implications of doing so may complicate the relationship between agricultural policy (tax exemptions) and municipal land use and zoning codes. The authors suggest there are a number of unanswered questions focusing on land use law in the area of regulating marijuana land uses, while other considerations, such as crop insurance, are not highlighted.

Németh and Ross discuss how local authorities control cannabis business siting and how these regulations affect the amount of suitable land for sites and create environmental justice issues. Most medical marijuana dispensaries are located in predominantly low-income areas or communities of color. The authors describe three regulatory categories as reasons for these regulations: zoning restrictions, proximity buffers, and density controls.⁹¹ The use of zoning restrictions makes medical dispensaries similar to “liquor stores and other nuisance/vice uses,” while distance buffers yield similar land use distributions as sex-oriented businesses, away from schools and playgrounds. Finally, density controls are used to limit spacing between

⁹⁰ Ibid, 301-319.

⁹¹ Jeremy Németh and Eric Ross, “Planning for Marijuana: the Cannabis Conundrum,” *Journal of the American Planning Association* 80, no. 1, 2014, 8.

businesses, such as controlling “bar and liquor store density.”⁹² Buffering measures are also used to eliminate the possibility of dispensary “districts,” while density controls may be used to cap dispensaries based on population distribution.⁹³

Other graduate work has been completed, with master’s theses examining existing medical marijuana policy or retail (recreational) marijuana policy during the implementation phase. In 2012 Samantha Bryant sought to understand California city, town, and county marijuana ordinances as well as their development, intent, effectiveness, and legal controls on cultivation.⁹⁴ While examining regulation of cultivations, she details efforts to control indoor and outdoor cultivation; indoor cultivation raises safety concerns, such as risk of fire from poor, uninspected wiring in grow rooms or of mold from continuous moisture in humid growing environments. One highlighted community only permits indoor cultivation in residences if the home remains used as a residence. Other controls include square footage limitations and electricity wattage use caps.⁹⁵ Regulations on California outdoor cultivation also include bans and size limitations. The thesis highlights differences between rural and urban and indoor and outdoor cultivations,⁹⁶ but the context for these sites, medical marijuana in California, has operated as a “gray-market” with a patchwork of enforcement and licensing strategies since the mid-1990s.

Another master’s thesis by Kali Hollenhorst assessed interim and permanent land use mechanisms regulating retail marijuana in Washington.⁹⁷ This research responds to the lack

⁹² *Ibid*, 9.

⁹³ *Ibid*.

⁹⁴ Samantha M. Bryant, “Public Policy Assessment of Local Government Approaches to Implementing California’s Medical Marijuana Laws,” 2012, 6-7.

⁹⁵ *Ibid*, 57.

⁹⁶ *Ibid*, 82-83.

⁹⁷ Kali F. Hollenhorst, “Planning Effectively for Legalized Recreational Marijuana: An Assessment of Community Land Use Ordinances in Washington State,” 2014, 3.

of literature examining “policy content of municipal land use ordinances relating to recreational marijuana uses.”⁹⁸ One important component of Hollenhorst’s project is the lack of consideration for existing medical marijuana regulatory regimes, as only retail (recreational) marijuana land use ordinances were included in her study.

Cannabis: Agriculture in a Complex Legal Environment

One commonly identified regulatory trend found in the listed land use literature is the inclusion of marijuana cultivation in agricultural or farm use zone districts. At the same time, medical or retail marijuana is not entirely considered an agricultural product. Two forthcoming articles by Stoa examine cannabis (legal marijuana) and agriculture. One details the convergence of water rights and marijuana legalization, while the other looks at a variety of agricultural regulation challenges posed by an industry that emerges during a time of prohibition.

One forthcoming article, “Weed and Water Law: Regulating Legal Marijuana,” explores legal constraints that have arisen as a result of legalization occurring in the arid Western United States where water allocation is governed with increasing federal influence but also in Eastern states governed by riparian water paradigms. The article discusses the current marijuana landscape, operating largely outside water law, while also looking to the future where marijuana markets will be shaped heavily by water rights and availability. This article also discusses the intersections of water law and policy, politics, legalization, and the continued emergence and growth of marijuana as an agricultural industry. Colorado’s Constitutional Amendment 64 lacks consideration for natural resources. At the onset of

⁹⁸ Ryan Stoa, “Weed and Water Law: Regulating Legal Marijuana,” *Hastings Law Journal* (forthcoming, 2016), 27.

implementation, the state began improving environmental protection measures, such as pesticide regulations and waste products, but failed to mention water.⁹⁹ The connections among marijuana cultivations, irrigation supply, and water policy have not yet been extensively covered in the literature.

The federal influence discussed in the article includes “the broader jurisdictional battle between the states and federal government¹⁰⁰ over marijuana legalization;” the Justice Department has its current position toward state marijuana regulation regimes, while the Bureau of Reclamation’s policy reflects continued prohibition through a federal water ban for marijuana irrigation, straining local water managers and suppliers in the process.¹⁰¹ This policy does not apply to water from non-Reclamation (non-contract) sources (i.e., non-tributary aquifers, other water rights) that is comingled with water in or from Federal facilities. Pueblo County’s local response to Reclamation policy was highlighted in the article, noting the decisions of some area water providers:

The Bureau of Reclamation provides water to even more lands in Colorado, where regulators are similarly confused. One water supplier insisted that its water supplies could not be interfered with despite having to pass through a Bureau of Reclamation dam facility. By contrast, a water district in the same area imposed a moratorium on marijuana irrigation in reaction to the federal policy, before lifting the moratorium despite the policy.¹⁰²

⁹⁹ Ibid.

¹⁰⁰ Currently, the federal government does not have one holistic stance on cannabis. While the Department of Justice has let states run marijuana regimes within the Cole Memorandum, other departments such as Reclamation and financial regulators have not had similar receptions. Some agencies, such as the EPA, have chosen to work with states by allowing for marijuana pesticide registration as a Special Local Need.

¹⁰¹ Ibid, 24.

¹⁰² Ryan Stoa, “Weed and Water Law: Regulating Legal Marijuana,” 25.

Additionally, a lack of federal guidance for determining viability of local water presents a problem in multiple states:

*Pueblo County has made its own determinations, setting aside water it has deemed non-federal for the cultivation of marijuana. It has since been proactive in issuing permits to cultivators, including a lease sale of 3.26 million gallons to a single operation in March, 2015, despite acknowledging that the county has little data on marijuana cultivation's water consumption patterns.*¹⁰³

Another early legalization adopter, Washington, has encountered similar regulatory and water supply issues. Other major challenges highlighted include the need to balance marijuana growers' water demands with the appropriated rights of existing senior rights holders, and the author suggests state water laws will play a major role as the industry moves forward with regulators and lawmakers as major drivers of future developments.

Stoa's forthcoming article¹⁰⁴ discusses major agricultural regulatory challenges facing the growing marijuana industry. These include environmental implications such as pesticides and energy use, the potential for an appellation system similar to the wine industry, water allocation and quality, and markets' regulatory frameworks. The article points toward the feasibility of making marijuana a sustainable industry, while also noting the importance of tailoring regulations to the numerous challenges posed by legalization.

Other overlooked agricultural considerations include right-to-farm laws, marijuana industry inclusion in comprehensive plans, and water consumption. Right-to-farm provisions are developed to preserve farmland from non-agricultural land uses, such as residential

¹⁰³ Ibid, 28.

¹⁰⁴ Ryan Stoa, "Marijuana Agriculture Law: Regulation at the Root of an Industry," *Florida Law Review*, Volume 69, Issue 2, (forthcoming, 2017).

development, and lawsuits due to nuisances. According to Colorado's agricultural operation nuisance liability law:

*The general assembly recognizes that, when nonagricultural land uses extend into agricultural areas, agricultural operations often become the subject of nuisance suits. As a result, a number of agricultural operations are forced to cease operations, and many others are discouraged from making investments in farm improvements.*¹⁰⁵

The statute outlines a series of activities and conditions that occur on farms that shall not be considered nuisances, including employment of commonly accepted agricultural methods and non-negligent operations.¹⁰⁶ Pueblo County has also instituted a right-to-farm ordinance in county code. More research will be needed to understand commercial wholesale marijuana production and the role of agricultural policy and control, tying cultivations to other nearby agricultural land uses.

At the intersection of land use controls and agricultural marijuana policy lies an additional literature gap. Although existing literature discusses zoning and other regulatory tools to control marijuana-related land use, none mention comprehensive plans or widespread marijuana production, processing, and sale as parts of the land use scheme in the community. This is briefly discussed in a report from the American Planning Association,¹⁰⁷ which notes that "inconsistencies between the locally adopted plan and development regulations are

¹⁰⁵ Colo. Rev. Stat. § 35-3.5-101.

¹⁰⁶ Colo. Rev. Stat. § 35-3.5-102.

¹⁰⁷ Deborah M. Rosenthal, Alfred Fraijo Jr., "The Next Zoning Battleground: Trends and Challenges in Local Regulation of Medical Marijuana," *Zoning Practice*, American Planning Association, July 2011.

vulnerable to legal challenges” and that code modifications to permit, restrict, or prohibit the new industry may be subject to legal challenges.

Other literature gaps exist in determining the exact amount of water needed to irrigate cannabis. One article discussing stream diversions irrigating Northern California’s main marijuana cultivation region notes a six-gallon consumptive use per plant, per day,¹⁰⁸ yet numerous other unattributed estimates in media and reports also point to a range of 2-10 gallons per day, per plant, depending on variables such as climate, indoor/outdoor growing environments, soil media, and variety (strain).

¹⁰⁸ Bauer, Scott, Jennifer Olson, Adam Cockrill, Michael Van Hattem, Linda Miller, Margaret Tauzer, and Gordon Leppig, "Correction: Impacts of Surface Water Diversions for Marijuana Cultivation on Aquatic Habitat in Four Northwestern California Watersheds," *PLOS ONE* 10, no. 9, 2015, 2.

Chapter 4: Research Methods

This chapter discusses the limitations of previous research and the contributions this thesis will make to land use planning and marijuana regulatory systems. Qualitative research methods selected for this project include content analysis and interviews with area land use regulators, water regulators, and marijuana cultivators. Prior literature, including research by Salkin and Kansler,¹⁰⁹ Nemeth and Ross,¹¹⁰ Bryant,¹¹¹ Hollenhorst,¹¹² and Stoa,¹¹³ described a variety of local regulatory challenges arising from medical and retail marijuana legalization, numerous regulatory strategies to address them, and occasionally, affects and implications of those regulatory systems. Only one of these analyses included participation and feedback from government officials, and none of these included participation from legal, licensed marijuana cultivators and business owners. Most of the research focused on medical existing marijuana programs and regulations, while only one focused on an emerging market for retail marijuana cultivation and sale in Washington state. A larger literature gap exists in the area of water policy and irrigation for marijuana cultivations and other associated establishments.

Pueblo County, Colorado

Pueblo County was selected as the study area due to its land use regulations and existing marijuana market. While other communities have regulations in place, this county has widespread marijuana cultivation in excess of one hundred active licenses.

¹⁰⁹ Patricia E. Salkin, Zachary Kansler, “Medical Marijuana Zoned Out: Local Regulation Meets State Acceptance and Federal Quiet Acquiescence.”

¹¹⁰ Jeremy Németh and Eric Ross, “Planning for Marijuana: the Cannabis Conundrum.”

¹¹¹ Samantha M. Bryant, “Public Policy Assessment Of Local Government Approaches To Implementing California’s Medical Marijuana Laws.”

¹¹² Kali F. Hollenhorst, “Planning Effectively for Legalized Recreational Marijuana: An Assessment of Community Land Use Ordinances in Washington State.”

¹¹³ Ryan Stoa, “Weed and Water Law: Regulating Legal Marijuana.”

The study area is located in southern Colorado (see *Figure 2*). According to the U.S. Census Bureau, Pueblo County had a 2014 population of roughly 162,000. Pueblo County, as a jurisdiction, utilized its local option to permit medical marijuana cultivation and sale in 2010. At the same time the county seat, the City of Pueblo, originally prohibited medical marijuana cultivation and dispensaries, and now permits marijuana establishments under strict regulations. For the purposes of this thesis, chartered communities (City of Pueblo and Statutory Towns of Boone and Rye) are excluded from the study area, leaving unincorporated Pueblo County to be the sole focus of the analysis. The unincorporated area includes two special districts, Pueblo West Metropolitan District and Colorado City Metropolitan District. These areas have been created as special taxation areas under Title 32 of the Colorado Revised Statutes, and they provide some public services to residents and businesses, but they do not enforce their own land codes.¹¹⁴

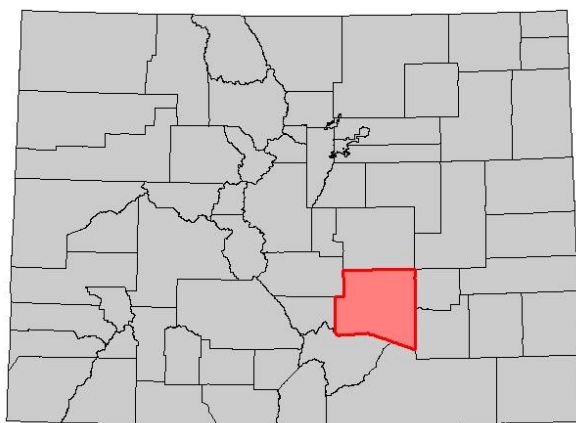


Figure 2. Location of Pueblo County within Colorado.

Inclusion of water participants enabled examination of multiple sides of a zoning development review requirement placed on applicants seeking to develop marijuana

¹¹⁴ Colo. Rev. Stat. § 32.

establishments: the inclusion of a water supply letter from a legal source. While the research projects, articles, and theses listed previously describe approaches to regulating cultivation, they fail to address marijuana as an agricultural product. The inclusion of cultivators along with water suppliers and regulators who provide irrigation services provides a foundation for understanding marijuana growth operations and their function as agricultural activities, not as illicit or gray-market activities (see Figure 4 on the following page).

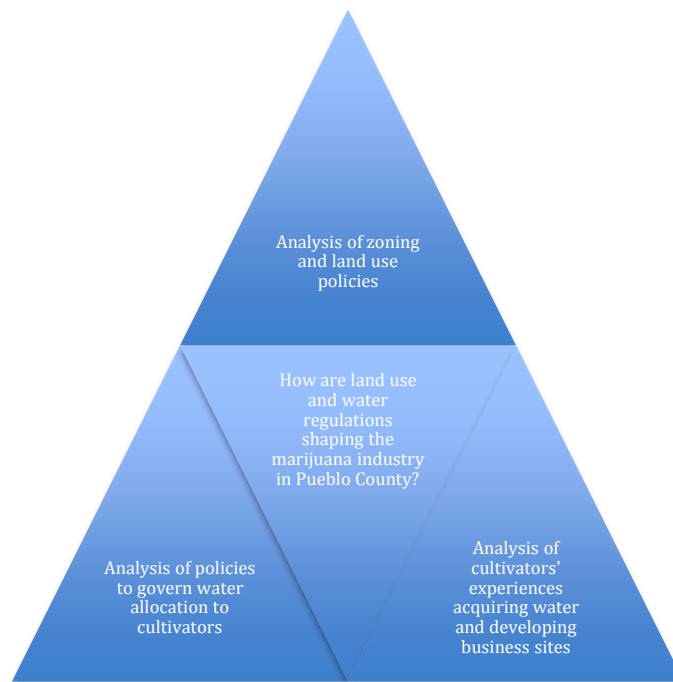


Figure 3. Synthesis of Study Components and Research Question

Content & Relational Analysis

First, a content analysis of Zoning Compliance Review Marijuana (ZCRM) applications from 2013-2015 was conducted, examining a summary¹¹⁵ obtained from the Planning & Development Department. The ZCRM is an administrative development review process

¹¹⁵ All zoning compliance applications are public record. Individual compliance and development review records may be found through Pueblo County at the Pueblo County Online Planning Case Search, <http://www.co.pueblo.co.us/cgi-bin/webformbroker.wsc/savesession.p?dept=419104>

established by the Pueblo County Department of Planning & Development to review potential marijuana establishments for land use approval. Due to a majority of marijuana establishments being designated by-right land uses in many Pueblo County zone districts, most proposed cultivations, marijuana-infused products locations, and dispensaries are not subject to public zoning hearing, although they are subject to a public hearing with the County Liquor & Marijuana Licensing Board. Therefore, the ZCRM form is used in an administrative review process conducted by planning staff. The 11-page ZCRM application requires the following information:

- Business and property owner data—including property maps and zone district
- Letters from the Pueblo City-County Health Department, sanitation district (sewage), fire district (fire service), Pueblo County Public Works and/or Colorado Department of Transportation (county and state highway access/impact)
- A letter from the Pueblo City-County Health Department
- Floor Plans for Greenhouses and processing buildings
- Compliance with subdivision code
- Proof of a water source, either a municipal supply, hauled water, or well water—with documentation to support the source’s legality

The most relevant information for this analysis includes the zone district and letter from a legal supplier of water. These two responses were used to determine (A) the number of establishments, specifically cultivation sites per zone district, and (B) the main water utilities supplying water to proposed establishments. Additionally, ZCRM data was used to identify potential case study participants based on their respective zone districts and water suppliers.

Interviews with Land Use Regulators

Interviews were conducted with four Pueblo County employees whose positions include land use administration and regulation, although their roles varied. The interview participants included the director and assistant planner of the County Planning and Development Department, one county commissioner, and the county's director of economic development and geographic information systems.

These interviews were designed to develop an understanding of the County's approach to developing marijuana value-chain land use regulations, including using alcohol as a model for regulating new marijuana land uses, the historic context of land use regulation for marijuana establishments, the current system of administrative approvals for marijuana establishments through the Zoning Compliance Review Marijuana process, and an outlook for the industry were discussed. Questions focused on the rise of legal marijuana in Colorado and Pueblo County and on the future of the industry and local market. The themes covered by the questions in the interviews included Pueblo County's discussion to regulate marijuana, land use concerns addressed by marijuana zoning regulations, the difference between land use regulations for medical and retail marijuana establishments, land use regulations' influences on cultivation, the impact of marijuana cultivation on the local economy, concerns to address as the marijuana market continues to mature and evolve, and the potential for land use conflicts with the nascent hemp industry. (See Appendix A for interview questions.)

Interviews with involved planning and land use stakeholders assisted in the description of the county's land use regulatory system and its relationship with marijuana establishments, mostly pertaining to indoor, outdoor, and greenhouse marijuana cultivations. These cultivations are either standalone establishments or are connected to other marijuana

establishments, such as marijuana-infused product kitchens or dispensaries (medical marijuana centers, retail marijuana stores, or both).

Interviews with Water Regulators

Interviews with involved water regulators assisted in the description of each water source or use. Participants were selected by their respective utility or agencies' listing in ZCRM applications. These utilities and agencies included two water utilities—the Pueblo Board of Water Works (PBWW) and Saint Charles Mesa Water District (SCMWD), one well user group (Arkansas Basin Well Group), and the Colorado Division of Water Resources (DWR), which administers well permitting throughout the state.

The purpose of these interviews was to develop an understanding of the supply of water in Pueblo County from a variety of municipally supplied, surface, and ground sources. In addition, the policies, regulations, and limitations of each utility or agency were explored. The issues covered by the questions in the interviews included the laws and policies governing the allocation and use of water for Pueblo County's marijuana industry, utility and agency responses to the emerging industry, challenges facing the system, cooperation with other area water utilities and agencies, the future of the marijuana industry, and concerns over water supply and drought. Participants described the development of cannabis irrigation policies and limitations by the federal and state governments as well as concerns for the future of the cannabis cultivation market in Pueblo County. (See Appendix A for interview questions.)

Interviews with Cultivators

Interviews with marijuana cultivators were also conducted, focusing on three distinct business establishments involved in the various steps of the marijuana value chain. These categorically unique establishments, selected for their unique features, were identified from a list of zoning compliance reviews and selected due to their unique categorical differences. All of the sites are involved in marijuana cultivation, but each was selected due to their involvement with additional steps in the marijuana production or sale process. In some instances, county officials assisted in participant recruitment, and the cultivator participants included owners of the businesses described below:

- A large outdoor cultivation located on over 20 acres in the A-1 zone district. This establishment, with over 10,000 plants and room for expansion, primarily sells wholesale flower and trim to retail marijuana stores throughout Colorado. The owner entered into the business with a background in real estate and water and had no prior experience in cannabis cultivation. The owner owns his own on-site water source; it is not provided by a water utility but instead by a well source that is pumped from the ground.
- An outdoor cultivation with onsite greenhouse cultivations and a marijuana-infused product kitchen (MIP). The site produces wholesale medical and retail infused products (wax). The owner developed the 55-acre site originally in the A-1 zone district but needed to apply for PUD rezoning to begin operation on the medical-licensed marijuana-infused product manufacturing (MIP). The owner's original source of water, the City of Florence, became unavailable, and he is in the process of

acquiring new water rights. In the meantime, he has filed a substitute water supply plan (SWSP) with the State and County to continue operating.

- A medical marijuana center with a detached area for cultivation. The medical center is located in the Community Business Zone District, and the Non-Contiguous Medical Cultivation is located in the I-2 zone district. Given its location in Pueblo West, the Metropolitan District supplies it with non-federal water.

Key themes covered in these interviews included the owners' entrances into the legal marijuana industry, their experiences obtaining County approvals for the establishment (cultivation), suggestions to approve the zoning and land use approval process for marijuana establishments, water acquisition and restrictions limiting the ability to secure water, and their concerns over the emergence of a local hemp market. (See Appendix A for interview questions.)

Some participants were involved in the marijuana industry in some legal capacity prior to the passage of Amendment 64 and the emergence of a retail regulation system. Their prior experiences are used to illustrate the difference between pre- and post-legalization controls, notably on land use and zoning.

Chapter 5: The Development of a Regulatory System

This chapter introduces the development of Pueblo County’s land use regulations for the new cannabis industry, including the basis for the county’s marijuana regulatory system informed by alcohol stores and the existing medical marijuana industry, the difference between medical and retail marijuana regulations, and the county’s zoning compliance review process.

Marijuana cultivations are permitted, developed, and licensed as part of multiple legal frameworks: the two Constitutional Amendments legalizing medical and retail marijuana, statutes governing medical and retail marijuana, and the county’s marijuana land use and licensing system. Marijuana establishments, as well as hemp establishments, along each step of the marijuana “value chain” have different land use suitability and permissions. The different types of activities occurring at each step of the value chain (shown on the next page in *Figure 3*), occur in different types of settings, and land use regulations account for these accordingly, including siting in areas with lower residential density, agricultural or industrial character, or business and commercial areas.

Pueblo County Creates a Marijuana Land Use Policy

Colorado’s marijuana landscape prior to retail legalization was marked with less regulation and oversight. The onset of Amendment 64 and the *Cole Memorandum*, both of which replaced vague statutes and a less formal market, led to increased state and federal scrutiny over the state’s commercial marijuana markets. Prior to legislative action regulating the medical marijuana industry and later retail legalization under Amendment 64, a lack of regulations led to a larger presence of “gray-market” cultivation and distribution. Multiple interview participants, including County officials and cultivators, highlighted the lack of

regulations prior to the establishment of commercial markets, with one cultivator describing it as “straight up Wild West.”



Figure 4. The Marijuana Value Chain¹¹⁶

Marijuana would arrive at dispensaries after being grown at home grows or other installations, and growers would sell large quantities of marijuana to dispensaries for resale. One participant was previously a caregiver, cultivating marijuana for five or six medical patients in three shipping containers buried underground. The facility had electricity and a water tap for irrigation. With a state plant count limit of 99 plants per patient, the facility had hundreds of plants at a time, but there were no requirements on security, cameras, badges, or for a time, product tracking. As clients obtained their physician-recommended marijuana, some passed it along to other patients. One interview participant described how his product ended up at dispensaries in a less formal market with little regulation and oversight:

¹¹⁶ Photo sources, *Cultivation*: <http://www.hightimes.com/read/cannabis-cultivation-basics>, *Processing*: <http://www.thecannabist.co/2015/05/04/hash-oil-colorado-law/34359/>, *Sale*: <http://www.thedailychronic.net/2014/33258/report-new-york-lawmakers-agree-on-changes-to-medical-marijuana-bill-could-vote-soon/>

I found out it was ending up in town. And some people were smoking it and a dispensary found it. And they were like holy shit this is amazing weight...so I started growing for a dispensary.

Other businesses predated the licensing system and were either “grandfathered” in under previous standards or licensing systems or were forced to adapt to remain compliant as new standards emerged. One business owner described how he acquired his cultivation, an existing business, and then moved it to current site before the state Medical Marijuana Enforcement Division (now the Marijuana Enforcement Division) came into existence and began issuing licenses.

Pueblo County citizens, Commissioners, Planning & Development staff, Economic Development and GIS director, and consultants all had roles in developing the marijuana land use regulations. The current director of Planning & Development oversees all of the zoning and licensing¹¹⁷ components of the marijuana industry, excluding revenue from tax collections. Her role in implementing these policies extended back to researching medical marijuana regulations and developing a text amendment to Title 17 of the county code after the *Ogden Memorandum*. The County Economic Development and GIS director’s main role is in overseeing the development of GIS data, which is used to inform land use policy. One County Commissioner was a State Representative at the time of the 2009 *Ogden Memorandum*. The state faced a noticeable rise in unregulated medical marijuana dispensaries, and a need for legislation to control the industry arose. When he became a

¹¹⁷ *Liquor and marijuana licensing responsibilities were transferred to the Planning & Development Department in early 2016. Now, the office is a “one-stop shop” for business owners, who obtain zoning approval and, later, a license or renewal. The workload is significant enough to warrant hiring two full-time staff members: a new Licensing Agent and an additional administrative assistant.*

Pueblo County Commissioner, he brought political experience in regulating the industry to the County.

Land Use Challenges in Marijuana Country

Alcohol: a Model for Marijuana?

Pueblo County's regulation system (zoning and licensing) for the medical marijuana industry had been running and evolving before the development of the retail regulations, which were created in a manner to sway public support for legalization. New retail marijuana regulations were designed with the existing medical marijuana and alcohol regulations as models. According to the County's Economic Development director, the refinement of the marijuana regulatory system occurred mostly during the period before Amendment 64, with alcohol sales as a guide for medical marijuana sales:

Medical marijuana had been an issue that Pueblo County had been really working around and dealing with for seven, eight years...we looked at it from a safety standpoint. How do we handle liquor stores, and what kind of negative impacts do liquor stores carry with them? And do you really want them directly across from a school? Or, you know, how do you want that to be done? And so our precedent was primarily liquor stores.

The regulation of alcohol stores was used as a model for medical marijuana establishments, primarily dispensaries, and similar approaches were considered for both land use and licensing. Liquor stores have setbacks and buffer requirements, mainly from nearby schools and residences, but marijuana establishments have more stringent buffers, limitations, and requirements. According to one local official, politics played a major role in conversations about siting and setback requirements when drawing comparisons to alcohol stores:

Something that our constituents have basically said again and again and again is you can't do marijuana across the street from schools. But when the same folks are totally fine with it being a very poorly run liquor license, that's a tough argument for us to say, "What's the difference?"

Exterior advertising at marijuana dispensaries, such as marketing, promotions, and signage, were also regulated. While liquor stores freely advertise specials, promotions, and prices, marijuana dispensaries were prohibited from doing so. The prohibition on advertising was mainly due to concerns over pricing (i.e., "this is the cheapest stuff that you can get") or advertisements discussing strength or potency.

Additional sign standards were developed, requiring the use of a green cross or a red Amendment 64 sign to designate marijuana dispensary locations; however, other signs and disturbances were limited to alleviate blight and nuisances. "We don't want to see any big green dancing ganja guys or loud music," one official commented. Another comparison to alcohol arose looking at the regulation of alcohol outlets' advertisements and bringing them in line with standards for marijuana. Methods of advertisement are geared toward different customer demographics, those who seek out those types of stores. As land use and signage rules play a large role in what occurs in neighborhoods, resident concerns frequently arose:

...I think the core of what residents that are adjacent to these stores are wanting to control is, who's gonna be blasting bass at 2:00 in the morning outside of their house, sleeping on the sidewalk, you know, various sorts of things like that? They don't want any of that kind of activity in their neighborhood.

As regulations were being developed, county leaders also considered how alcohol stores were treated, with consideration about how alcohol land use and licensing rules could be updated to reflect those for marijuana:

Going through the process, we looked at the alcohol licensing at the licensing and land use processes...in, my opinion, looking at them...I found several problems where we should actually tighten down on alcohol to bring it up to the standard that we have marijuana at...you've got liquor licenses right across the street from schools, where you actually have liquor violations going on...How many deaths are occurred because of the alcohol being sold at this establishment? And how many deaths are occurring because of the marijuana? It's like zero to several.

Like alcohol outlets, marijuana establishments have buffer restrictions from schools, but they are larger. Officials noted that these new businesses must be complimentary to the neighborhood that surrounds it, but there are not many other requirements. Alcohol licenses do not have a cap or moratorium on the number of stores, and they are a countywide use by review. Unlike alcohol outlets, security concerns have arisen as a result of marijuana's federal Schedule I status, including a lack of access to banking and financial services, as a result, marijuana businesses are often forced to run cash only operations—some of which include secure vaults on or off site.

While the marijuana value chain exists as a series of land uses from cultivation to sale, parallels to the alcohol industry are not always clear. One local official noted the unnecessary conflation between the two, saying there is a lack of hop or barley farming and production in the county, and as a result, comparisons between marijuana and alcohol cultivation and sales

are not accurate or appropriate. For the new marijuana industry, the county is a unique place to cultivate, and while many localities, including surrounding counties and communities, have heavily restricted or completely banned outdoor marijuana cultivation, others chose to permit it even with very little ongoing activity. Pueblo County chose to permit outdoor cultivations as a use by-right in a large portion of the county as a result of abundant sunshine and available land. One local official described the physical characteristics contributing to Pueblo's agricultural nature, while also accounting for the unique demands of growing a high-value agricultural crop, as follows:

The biggest issue is sunshine; we get a lot of it—and land. And if you're gonna grow things on an acre, 40 acres, or 6,000 acres, you're farmland is in Pueblo County. And that's been our bread and butter forever as a community...Growing marijuana on a piece of land isn't any different to us than growing alfalfa, [except that] it's a more valuable crop, and you have to protect against folks going onto to somebody's property and tearing out plants.

Cultivation and production of marijuana were largely regulated with security precautions in mind, while dispensaries were treated essentially as alcohol outlets. The entire marijuana value chain is subject to state and county regulations, with state regulations having been incorporated into the County Code. Additionally, they also chose to adopt other licensing and zoning requirements, respectively, into County Code Titles 5 and 17. The combination of state and local regulations reflect those highlighted in marijuana land use literature, which notably include:

- **Fencing requirements**, which mirror state requirements, including opaque or shaded fencing for outdoor cultivations;
- **Cameras** in all cultivation, processing, and sale facilities, tracking all steps from packaging to distribution and sale;
- **Buffers**, which are mostly written to include distances from schools, as required by the Federal Drug Free Schools act, as well as other marijuana establishments;
- **Age requirements**, as required by the state and county license provisions, including a 21 or older restriction to cultivations, marijuana-infused product manufacturers, retail stores, and dual-license retail and medical stores, as well as an 18 or older requirement for medical centers; and,
- **ID and badge rules**, unlike other industries, state-issued identification badges are required for all employees, and similar to alcohol outlets, identification is required to enter dispensaries.

As a high-value crop, licensing requirements account for measures to prevent mishandling, theft, or product entry into gray or black distribution markets. One component of this is a product tracking system in place from “seed to sale,” including RFID tags attached to plants, harvest batch monitoring, and computerized tracking through the processing, extraction, and sale.¹¹⁸

¹¹⁸ *The rise of a new high value crop—marijuana frequently grown outdoors—has resulted in a militarized agricultural landscape in some areas of Pueblo County. A series of informal site visits were conducted (at farms that were mostly not included for interview) in October 2015. During these visits, the researcher found other steps taken to secure products, included armed guards, armored delivery vehicles, escorted site tours, visitor identification, and the inability to touch plants or products.*

Medical vs. Retail

After the development of retail marijuana regulations, an initial distinction was made between storefront (dispensary) types, with the County originally being friendlier toward the establishment of medical centers when compared to retail stores. Although different dispensary types were originally established by two voter initiatives of differing intents, marijuana's opposition failed to consider the differences in permitted land uses, as noted by one local official:

It turns out that the opponents of marijuana don't see any difference when they see a retail store versus a medical store. So our attempt to distinguish between the two, for political reasons, was all null and void anyhow... opponents see new shops popping up, and they've got green crosses as opposed to Amendment 64 signs, they don't see a difference. So we changed it to make the land use consistent between the two.

As medical and retail dispensaries received similar political scrutiny and regulatory consideration, the permitted zone districts for medical and retail became the same later. One official commented, "One comes in for medical and one comes in for retail, and we look at them both the same way." Currently, all of the uses are clearly defined and are nearly identical in regard to zoning for all of the defined marijuana land uses. The main difference between medical and retail dispensaries is the type of activity going on inside the store, with some interview participants hoping to see the differentiation between medical and retail disappear from the zoning code in the future. When applicants fill out zoning compliance review paperwork, there are multiple categories for each type of land use—medical or retail—but it makes no difference on site plans. From the perspective of land use, "it's just

marijuana sales,” one participant commented. Another underscored the lack of difference between the medical and retail systems:

I don't see any distinction between the two. You know, the [medical] versus a retail store is the same thing in my mind, and really in everybody's mind. Plus, the added bonus of doing away with medical marijuana as a niche element to this is that we deal with these caretakers.

Another challenge Pueblo County zoning enforcement faces is the continued existence of home caregiver cultivations, which are frequently targeted by law enforcement and zoning compliance officials for a variety of violations. As a remnant from Constitutional Amendment 20, the state has been unable to completely shut down home (primary) caregivers. Instead, they have been limited by the state legislature and the Pueblo County Commission.¹¹⁹ These medical growers often violate state and county plant count rules or cultivate black market marijuana for distribution to Colorado or out-of-state buyers. It continues to remain easy for home caregivers to get set up, proving a problem for local land use regulators, as described below by one local official:

They're largely unregulated; they're largely illegitimate...and the burden of proof to be a caregiver is silly; it really is kind of laughable. And I understand that that was a logical evolution, and very poorly thought out evolution of how to handle medical marijuana on the premise that it was for medicinal use. But the distinction is no longer there.

¹¹⁹ Previously, unlicensed and untaxed home caregivers were able to grow marijuana: up to 500 plants per patient, with a limit of five patients, for a total of 2,500 plants. Now, the state limit is 99 plants per patient. Pueblo County used the zoning code to reduce this further, to 36 marijuana plants in industrial and agricultural zone districts, or 18 in a single-family dwelling.

The evolution of the marijuana market from a gray market to a dual medical and retail market has not completely accounted for home caregiver grows, yet local officials noted the variety of strains and strengths available at dispensaries with added safety and regulatory protections in place for consumers. These noncommercial growers have been limited by County Code revisions, but water is still provided through domestic, non-commercial sources. Water utilities are concerned about this trend, and zoning enforcement cannot completely mitigate unlicensed cultivators. Concerns from water providers will be covered later.

Using Zoning to Regulate Marijuana Establishments in Pueblo County

According to the planning director, all of the uses are the same between medical and retail marijuana and are permitted either by right or review. Cultivations are permitted in the A-1 and A-2 districts, and cultivations with contiguous MIPS and/or dispensaries (medical or retail) are permitted in the B-4 zone district. The I-1 and I-2 zone districts permit grows and MIPS but not dispensaries, and I-3 requires a special use permit.

<i>Current MJ Land Uses¹²⁰</i>	<i>Medical Marijuana</i>	<i>Retail Marijuana</i>
Cultivation	Contiguous Cultivation	Contiguous Cultivation
	Noncontiguous Cultivation	Noncontiguous Cultivation
Processing	MMJ-Infused Product Manufacturer	RMJ-Infused Product Manufacturer
Storage	Storage Warehouse	
Testing	(none)	RMJ Testing Facility
Sale (Dispensary)	MMJ Center	RMJ Store

Figure 5. Current Marijuana Land Uses in Pueblo County.

¹²⁰Pueblo County Code, Title 17.

	MMJ Non- Contiguous Cultivation	RMJ Non- Contiguous Cultivation	MMJ Contiguous Cultivation	RMJ Contiguous Cultivation	MMJ Infused Product Manufacturer	RMJ Infused Product Manufacturer	RMJ Testing Facility	MMJ Center	RMJ Store	Hemp (w/ outdoor)	Hemp indoor
A-1											
A-2											
B-1			R	R				R	R		
B-4							*	*			
I-1											
I-2											
I-3	R	R	R	R							
R-5			R	R	R	R		R	R		
PUD											

	By Right
R	By Review
	Subject to PUD terms

Figure 6. Zone Districts Permitting Marijuana Establishments as By-Right or by Review Land Uses.¹²¹

*MMJ Centers/RMJ Stores are only by right if they are located over 250 feet from any existing residence or mobile home.

If applicants or developers wish to add marijuana-infused product (MIP) sites to parcels in agricultural zone districts (A-1 or A-2) where extraction is not permitted, they must apply to rezone the property to a Planned Unit Development (PUD). Land use regulation focuses on ensuring safety, and the PUD allows for the most flexibility in response to special circumstances. In this case, the PUD rezone allows for both extraction and cultivation to occur on the same site. The PUD rezone is a popular option for applicants looking to undertake multiple activities as part of their business, especially when security considerations are at the forefront. While one cultivator interviewed had already completed

¹²¹ According to Pueblo County Code, Title 17: “Except as are expressly permitted under the terms of this Title 17, Medical Marijuana Centers, Medical Marijuana-Infused Products Manufacturer, Medical Marijuana Optional Premises Cultivation Operations, Retail Marijuana Stores, Retail Marijuana Cultivation Facilities, Retail Marijuana-Infused Products Manufacturers, Retail Marijuana Testing Facilities, and Storage Warehouses, as well as any other activity involved in the cultivation, testing and distribution or sale of marijuana or marijuana infused products, are expressly prohibited as land uses in Pueblo County.”

the process, another is considering the transition to be able to develop an on-site MIP. A PUD and zoning hearing are required to transition from A-1 (agricultural only) to PUD (agricultural/industrial).

Online county records on Planned Unit Development applications date back to 2001 and were rarely used as a development tool or rezone option until after the passage of Amendment 64. Recent years indicate an increase in filings, mostly due to developers' desire to consolidate marijuana uses. The table below shows the number of PUD filings per year and includes the number of cannabusiness-related PUD filings for 2012-2015.¹²² Years that had no PUD filings are excluded from the table.

Year	Total PUDs	Year	Total PUDs	MJ PUDs
2001	1	2011	1	
2003	2	2012	2	1
2005	3	2013	5	4
2006	4	2014	10	9
2007	4	2015	9	6
2008	1			
2010	1			

Figure 7. Planned Unit Development Applications, 2001-2015.

The current land use regulatory system reflects the intent of using the PUD as a tool for consolidating marijuana establishments, as one purpose of the PUD is to, “encourage, in appropriate cases, the consolidation of marijuana establishments, which are strictly regulated uses under this Title and under State law.” As a result, the current land use system may not be meeting the landscape of the industry upfront.

¹²² *Some PUD filings from 2015 have yet to be approved. They have been included.*

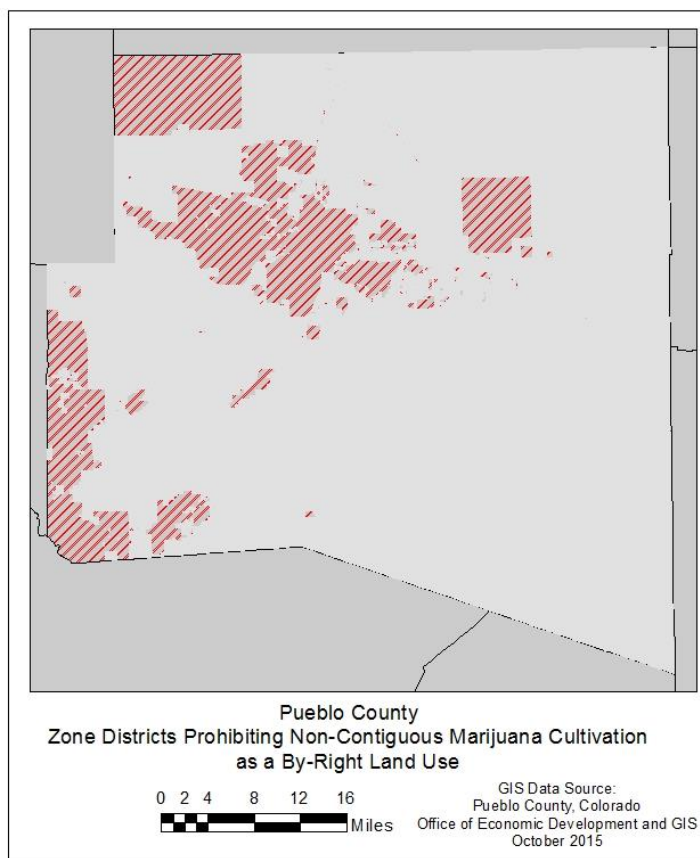


Figure 8. Zone Districts Not Permitting Non-Contiguous Marijuana Cultivation as a by-right land use.

Zoning Compliance Review Marijuana

Pueblo County adopted a development review process to review and approve marijuana applications for any type of development, for medical or retail, and for cultivation, processing or sale. The Zoning Compliance Review Marijuana (ZCRM) process has largely been characterized as a simple and straightforward development review. In a short time, this process has allowed a large number of marijuana establishments to enter construction and operation phases after passing an internal zoning review (and subsequent licensing process). The application itself is a ten-page form used to address a variety of development concerns involved in the establishment of any business, many of which are not unique to new cannabusinesses. The form requires a variety of information, which is illustrated in *Figure 9* on the following page. The ZCRM has evolved since its inception, mainly due to the added

requirement of a water supply letter, which is the most important piece of information used in this thesis, and is “a very big deal” due to resource constraints. The county requires a letter from the water source, wherever it is coming from, to ensure legality and ease of use. The importance of assessing water viability is evident in the words of both the County’s planning director and a county commissioner:

If you don’t have approved water source or if it’s cost-prohibitive, then that site can’t—they won’t want to grow marijuana on it...so, through our regulations, it can, I guess, deter certain sites from being used for cultivation.

You know, water laws—the Wild West—and if you’re in a spot with good water, then you’re in good shape. If you’re not in a good spot, then it’s a shame.

Some parcels have one or more wells on them instead of being situated in a utility district, and the county works with the state to see if the wells are usable. The intent of the requirement was not to limit development in certain parts of Pueblo County based on water availability; rather, it happened by circumstance.

Upon administrative approval of zoning compliance, applicants continue on with later steps in the process to marijuana licenses from both Pueblo County and the State of Colorado, which “are a little bit more complicated” as some participants described it. While the county ZCRM application process was characterized by marijuana cultivators as “not painful,” “very organized,” and straightforward, the state and county licensing process was described as being more difficult and confusing. All stakeholders interviewed, including cannabis cultivators, water utility managers and regulators, and county officials, praised the Zoning

Compliance Review Marijuana (ZCRM) process as well as the land use regulations for the new industry.

ZCRM Application Requirements	Purpose
Business information: <ul style="list-style-type: none"> • Land and zoning, legal property description, parcel, physical address • Maps 	Permission to use the site for desired marijuana activity Determining businesses, residences, schools, and other marijuana establishment locations nearby
Business type (medical or retail): <ul style="list-style-type: none"> • Cultivation (contiguous or non-contiguous); outdoor or indoor • MIP (Marijuana-infused product manufacturer) • Dispensary (store or center) • Other 	Ensures the proposed property is a permitted use on the desired site
Letter from Pueblo City-County Health Department	Covers features such as restrooms, sinks, hand rails, drains, wastewater treatment, septic tanks/fields, and description of what might be flushed down the drain
Letter from Pueblo Public Works or CO Department of Transportation	Ensuring access on public roads is sufficient (no significant traffic impact, or improvements needed)
Fire district	Contact information in the event of an emergency at the facility
Operating agreement	Connecting “the links in the chain,” typically with LLCs and holding companies
Site plans and floor plans	Ensuring compliance with Health Department requirements (enough bathrooms, sinks, drinking fountains, etc.)
Square footage and number of employees	Parking
Other businesses in the building (if in a strip mall)	Ensures compliance with buffers and other uses, including schools, rehab centers, daycare facilities, and residential zone districts
Letter from a water utility or provider	Ensures legal supply of water and/or permission to use a well

Figure 9. Required information in a ZCRM application

Applicants seeking recreational licenses for any type of establishment are required to apply for a state license first, then move forward to obtain zoning approval from the county, followed by a county license. Medical license applications are required to obtain zoning approval, then a license from the county, followed by a license from the state (see *Figures 10 and 11*). This can create confusion among applicants seeking to apply for both medical and

retail licenses. Applicants suggested the distinction between medical and retail, in the licensing context, could be eliminated.

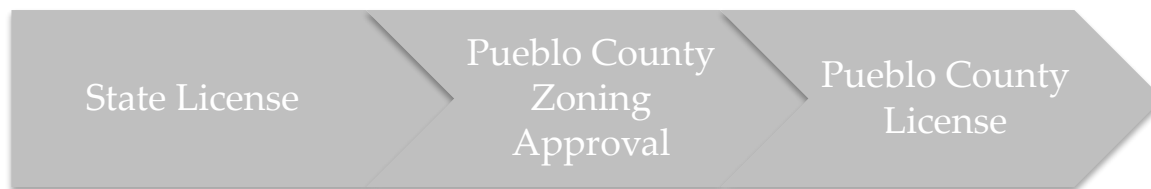


Figure 10. Application workflow for Retail Licenses



Figure 11. Application workflow for Medical Licenses

As these regulations were developed originally for medical marijuana cultivation and sale and were later expanded to cover retail marijuana, the system has “grown” rather than been “replaced.” Problem areas include the collection of required information (i.e., water source letter) and the development review process itself. Participants found confusion stemming from the workflow among the County and water regulators and utilities. One major area for improvement is the ZCRM’s connection between land use and water. Some water utilities require information from the county prior to the approval of water contracts or commercial accounts, yet the County requires a letter providing support of water supply. Multiple interview participants suggested integrating the ZCRM process with a “common application” for water providers, based on the State Division of Water Resources letter (See Appendix I).

From 2013-2015, there were 162 ZCRMs filed, which included all marijuana establishments and combinations of them (contiguous establishments). Not all of these

resulted in zoning approval: over three years, a total of 30 ZCRM filings were withdrawn by the applicant or voided (canceled) by the county. The county has now instituted a six-month development window after approval, which has resulted in some applications lapsing due to inactivity. Not all approved ZCRMs resulted in licenses or opened establishments.

The most frequently listed water sources over the three year period included: Pueblo West Metropolitan District (49 instances), Pueblo Board of Water Works (32), and Saint Charles Mesa Water District (14). Other sources included Pueblo West Metropolitan District (49), and wells, cisterns, and other sources.

As a result of increasing numbers of zoning application filings, the Planning & Development Department created a new full-time position, Assistant Planner, to conduct zoning compliance review and approvals for new marijuana establishments. The ZCRM, which is overseen by both the Planning Director and the Assistant Planner, connects the land use regulatory system with local water providers—a common relationship, especially in the arid Southwest.

Overall, consideration for local context and issues was a driver for the development of new marijuana regulations and the institution of the Zoning Compliance Review Marijuana (ZCRM) process. Without outside support or guidance, the county was left to seek input locally and institute an ad hoc system to allow the industry to operate in a way that benefits the community.

Chapter 6: A Budding Industry Requires Water

Colorado is an arid state with a growing population, and in an era of resource uncertainty, water conservation is a primary goal. The state's water sources include rivers, ditches, reservoirs, wells, and groundwater; however, the amount of water available, and the location of these sources, varies based on physical geography, legal limitations, and the intended use of the water being supplied. Prior appropriation, a system of water allocation and controls found only in the Western United States, governs the amount of water used, the purpose of the water, and times during which users can access water.¹²³ The prior appropriation doctrine is frequently referred to as "first in time, first in right," as opposed to the riparian water allocation paradigm in the Eastern United States, "first in sight, first in right." Prior appropriation is established when an individual appropriates surface or ground water by taking or diverting it and puts it to a "beneficial use." The first person to do that in a given area or hydrologic basin receives the first right to the water they are using upon receiving a court decree verifying their priority status.¹²⁴

The action known as *water rights administration* is the action of allocating water to users in the event of a reduced flow. If not enough water is available to fulfill the rights of all users along a river or basin, a senior water right holder places a "call" for water. The State Division of Water Resources then begins administration of water rights, and the most senior water right holder receives their share first, followed by each subsequent right holder by priority date based on the date of court decree.¹²⁵ This chapter discusses the current water

¹²³ "Prior Appropriation Law," *State of Colorado Division of Water Resources*, accessed February 18, 2016, <http://water.state.co.us/SurfaceWater/SWRights/Pages/PriorApprop.aspx>

¹²⁴ Ibid.

¹²⁵ Ibid.

supply and regulation situation in Pueblo County, as well as the vision for the county's marijuana market and the constraints and concerns looking forward.

Water Supply in Pueblo County

Pueblo County is situated along the 1,469-mile long Arkansas River, which runs from the Rocky Mountains to the Mississippi River.¹²⁶ The river runs through multiple counties as it passes from the Eastern Slope of the Rocky Mountains through to the Kansas state line, and water passes through the Fryingpan-Arkansas Project, a “transmountain, transbasin water diversion and delivery project” that ensures an average annual diversion of nearly 70,000 acre-feet of water to residents of Eastern Colorado. This water is combined with other available water supplies in the Arkansas River Basin to provide over 80,000 acre-feet of municipal and domestic water to consumers in the Arkansas River valley. Additionally, over 280,000 acres of agricultural land in the region are irrigated with water passing through the Fryingpan-Arkansas Project.¹²⁷ In addition to the Arkansas River, other surface water flows through the county, primarily through ditches and other sources. The entire surface basin is subject to regulation under the Arkansas River Compact and subsequent litigation.

Arkansas River Compact

The States of Kansas and Colorado originally reached a compact agreeing to the interstate management of the Arkansas River in 1949.¹²⁸ The State of Kansas sued Colorado in 1985 for overusing water from the Arkansas River, and disputes regarding water allocation

¹²⁶ “Largest Rivers in the United States,” United States Geological Survey, USGS, updated May 1990, <http://pubs.usgs.gov/of/1987/ofr87-242/>

¹²⁷ “Fryingpan-Arkansas Project,” *U.S. Bureau of Reclamation*, April 04, 2013, http://www.usbr.gov/projects/Project.jsp?proj_Name=Fryingpan-Arkansas+Project

¹²⁸ “Interstate Compacts,” *Colorado Division of Water Resources*, accessed February 28, 2016, <http://water.state.co.us/SurfaceWater/Compacts/Pages/default.aspx>.

along the river go back over a century. The suit lasted a decade and resulted in a Supreme Court ruling determining water was owed to Kansas. Colorado paid \$34 million in a cash settlement, but the lawsuit dragged on, mainly due to the monitoring of water use.¹²⁹ Numerous well user groups have been created to work to replenish water taken from the Arkansas River.

Groundwater, accessed by wells, is another prevalent source of water throughout Pueblo County. There are two categories of wells defined by the Division of Water Resources: exempt and non-exempt. Exempt wells are not subject to governance under the priority administration system, while non-exempt wells are.

Exempt wells include household use only wells, domestic/livestock wells, pre-1972 commercial exempt wells, unregistered existing wells put to beneficial use before 1972, monitoring and observation wells, replacement wells, and geexchange systems. Non-exempt wells include irrigation wells, subdivision wells with augmentation plans, replacement wells, gravel pit wells, pond wells, and recovery wells. For the purposes of this study, the most commonly utilized type of wells are non-exempt irrigation, commercial, municipal, and industrial; “typical examples of these four use categories include center-pivot crop irrigation systems, commercial business operations with inside and outside uses, central water distribution systems providing drinking water to residential subdivisions and municipalities, and water used in the manufacturing of a product.”¹³⁰

The Pueblo Reservoir is west of the City of Pueblo in unincorporated Pueblo County. This reservoir, operated by the U.S. Bureau of Reclamation, is part of the Fryingpan-

¹²⁹ John Hanna, “Colorado, Kansas File Pact to End Arkansas River Battle,” *The Denver Post*, August 5, 2009, accessed February 28, 2016, http://www.denverpost.com/news/ci_12993311.

¹³⁰ “Guide to Colorado Well Permits, Water Rights, and Water Administration.” *Colorado Department of Natural Resources*, accessed February 29, 2016, 4-5. <http://water.state.co.us/dwripub/documents/wellpermitguide.pdf>.

Arkansas Project and also serves as a recreation area, Lake Pueblo State Park. Water from Pueblo Reservoir is used by multiple water utilities in Pueblo County, including the Pueblo Board of Water Works¹³¹ and Saint Charles Mesa Water District.¹³² The water from Pueblo Reservoir is subject to federal regulation. Each water utility in the county has different sources of water, and most include water from non-federal sources, such as ditches or other surface rights.

Augmentation plans are frequently used by junior appropriators to “obtain water supplies through terms and conditions approved by a water court that protect senior water rights from the depletions caused by the new diversions.”¹³³ This usually involves storing junior water when in priority to ensure availability for release during times of river call in the future. According to the Division of Water Resources, “these plans can be very complex and it is suggested that an engineering consultant be hired to allow for proper consideration of all hydrologic and water right factors.”¹³⁴

Irrigating Marijuana’s Napa Valley

The passage of Amendment 64 in November 2012, which brought the onset of new regulatory considerations for cannabis (marijuana and hemp), came as a surprise to most area water regulators. One local regulator described the “perfect storm” that came up in Pueblo as a result of local land use regulations and challenges on water, such as the Arkansas River Compact:

¹³¹ “Your Water, Pueblo Board of Water Works,” Pueblo Board of Water Works, accessed February 20, 2016, <http://www.pueblowater.org/pueblos-water-system.html>

¹³² “About SCMWD,” St. Charles Mesa Water District, accessed February 28, 2016, <http://www.stcharlesmesawaterdistrict.org/index.php/about-scmwd>.

¹³³ Ibid.

¹³⁴ Ibid.

It kind of took us by surprise, because we didn't realize that there was, you know, that water was going to be such a big factor...Pueblo in particular has been affected a lot because they allow outdoor grows, and because they have some replacement water, and they've been somewhat cooperative with marijuana cultivation operations. This is more of an issue here than there is in other parts of the state.

Immediately following the passage of Amendment 64, water utilities and regulators were initially shocked at the number of applications for the newly approved industry. At the same time, interview participants from water utilities and the state called attention to the similarities between water made available for marijuana cultivations or other businesses, such as tomato farms or car washes, while a current unique federal limitation places a constraint on marijuana irrigation water.

Conservation and efficiency paradigms for marijuana remain the same as for other industries, while some regulatory limitations do exist, mainly through current federal drug policy. One water utility manager described the importance of water conservation across industries in Colorado:

One thing Colorado is the only one looking pretty strong on its water conservation...you're going to grow cannabis or you're going to grow flowers, under mass production you have to use the most efficient methods you can. If that starts to be an issue we probably would have to come back just like in certain cities car washes have to reclaim their water...If you have a 600 by 600 plot outside you need to be more efficient.

While water utilities are not currently regulating the methods used to irrigate indoor or outdoor cannabis crops, some are seeking information through supplemental applications¹³⁵ to better understand the different irrigation methods employed by area cultivators. One regulator noted this variety:

Not one person has come in here and with the same type of irrigation. Some guys are using a high efficiency green house where they reclaim the water that they use and so they're using less of my water, consistently. Some start putting a plant in a pot, then water each pot individually once a day. Someone is using a mist system. It's amazing how many different ways they are approaching this.

There is still a lack of information about how much water marijuana plants require, and utility managers and water regulators expressed concern and interest over such variables as cultivation environment (indoor or outdoor), ventilation and cooling systems, use of a greenhouse, soil composition, and plant variety. One water regulator simply described a current ad-hoc analogy to other crops, stating, “We’ve been comparing [marijuana] to tomatoes, [and] we don’t know.” Regardless of concerns and uncertainties about water consumption and a variety of constraints on the water supply for the marijuana industry (see next section below), utilities have provided letters indicating willingness to supply cultivations and establishments throughout the county. The table on the following page outlines the water providers and the number of supply letters per year from 2013-2015:

¹³⁵ *The supplemental application utilized by St. Charles Mesa Water District requires facility size and estimated water usage information, among other data. This form is not limited to marijuana operations.*

Water Supply Source	2013	2014	2015	Total
Pueblo West Metropolitan District	13	21	15	49
Pueblo Board of Water Works	0	7	25	32
St. Charles Mesa Water District	3	5	6	14
Well/Cistern	1	11	5	17
Unknown	5	0	6	11
Other	0	8	1	9
<i>ZCRM Voided, Cancelled, or Withdrawn</i>	<i>13</i>	<i>11</i>	<i>6</i>	<i>30</i>
Total Per Year	35	63	64	

Figure 12. Water Supply Sources 2013-2015

According to water suppliers and regulators, some of the licensed operations that have been granted supply letters as part of the ZCRM process have not begun cultivating, which has been determined either by “zero” readings on meters or through power company data for irrigation wells. Many of the wells that have been identified as marijuana cultivation water sources continue to have no electricity usage, indicating wells not in use. Other wells have had significant jumps in use, which has led to identification of illegal operations cultivating under the guise of home caregiver provisions.

Constraints on Pueblo’s Marijuana Irrigation Supply

According to local leaders, water officials, and cultivators, the largest constraint on irrigation water for the marijuana industry is the Bureau of Reclamation’s current ban on “federal water.” This ban (nexus rule) results in a prohibition of water passing through federal facilities to be used for activities in violation of the Controlled Substances Act. Because cannabis¹³⁶ remains a Schedule I substance, all commercial marijuana cultivations, processing facilities, or dispensaries must obtain water from non-federal sources, such as privately held water rights or ditch companies. Local water utilities are able to provide water to cannabusinesses, but only if the water is from a non-federal source, such as a utility-owned water right or well. As a result, multiple water utilities in Pueblo County have resorted to

¹³⁶ *This limitation also applies to industrial hemp.*

keeping accounting ledgers for federal and non-federal water acre-footage to determine the amount of usable water available to the industry. The Reclamation policy, which is currently slated to expire in May 2017, could still be expanded or extended. All interviewees contend the termination of this policy would save time and money, free up utilities' ability to service licensed cannabusinesses, and open up thousands of acre-feet of water to potential new cannabusinesses.

In addition to the federal water ban, marijuana cultivations are covered under the same laws that govern any other irrigation and wells. In Colorado, this means seniority rules water allocation under the doctrine of prior appropriation (“first in time, first in line”). The first person or entity to divert water from a particular region or stream has the highest priority, and then others follow. Most wells for marijuana cultivations are well diversions, and since wells are likely to be junior, they do not typically have priority, although the state allows wells to pump “out of priority” if the user replaces the depleted water back into the river. Requirements under the Colorado-Kansas Compact govern the use of these wells. Additionally, well users are required to adhere to Reclamation’s federal nexus rule while attempting to replace depleted water from the basin, which leads to additional challenges.

Responses to Water Constraints

Area water utilities and regulators discussed a variety of internal policies they have instituted as a response to Reclamation Policy 63. These range from acre-foot caps to service limitations or bans.

The Pueblo Board of Water Works responded to Reclamation’s ban on federal water by passing two resolutions over the summer of 2014, amending the Rules and Regulations’

General Provisions and *Water Service Outside Corporate Limits* sections. The first modification was a clarification allowing the Board to modify or terminate customers or accounts to comply with federal directives such as the Reclamation temporary policy, as well as other federal contracts or applicable laws. The second policy was making raw (untreated) water available to Pueblo County marijuana enterprises located outside City limits. The board capped available raw water to 800 acre-feet per year, but it is not usable on outdoor cultivations. Cultivators are required to first attempt to access water service from other applicable area utilities, if they are in their service area; these mainly include Pueblo West Water District and Saint Charles Mesa Water District. The Board of Water Works Director of Operations describes this policy:

We ask for a letter from that water district stating their objection to it. If their objection is simply, we don't have the correct water rights to supply them water, but we don't object to what they're doing, then we will provide them water. So, we do have an interactive process, whether it's St. Charles Mesa Water, Avondale, Boone, Pueblo West, any of the neighboring within Pueblo County, we communicate with them before we supply water to anybody.

The Board of Water Works implemented this policy to avoid “stepping on anybody’s toes by providing water where the industry was not desired.” However, this suggests the city water board could be attempting to exercise control over potentially undesirable land uses by making water available only with permission from other water districts for potentially undesirable land uses, which could be problematic or even questionably legal under the duty to serve (supply water).

All of Pueblo Board of Water Works' marijuana service water must be pulled from non-federal sources to comply with the Reclamation policy, and this is accomplished by using water pulled from the North Side Intake Ditch. That intake has a meter that is used to monitor the amount of available non-federal water, and the utility ensures that volume is greater than or equal to the amount of water going out for marijuana operations. This water is not only used for irrigation but also for well augmentation. The utility spends a considerable amount of time ensuring compliance with current Reclamation policy, mostly through accounting for the virtual differentiation between comingled water.

One area grower was originally hauling water from a dispensing station in the nearby City of Florence, which changed its policy to serve growers. He was forced to store the water in tanks as a result. He later pursued a contract with the Pueblo Board of Water Works to haul water, which would be usable for greenhouse cultivation, making infused products, serving bathrooms, or meeting other water needs, but not outdoor cultivations. The Board of Water Works instituted a policy restricting raw water leases to indoor and greenhouse cultivations only, excluding outdoor grows. The grower worried he would end up "sitting out in a desert high and dry, in a business [he] invested over a million dollars into that needed to drink," so he began a process to acquire senior water rights. After water court proceedings are complete, he anticipates to own roughly two thousand acre-feet¹³⁷ of non-federal water, which will be also be made available for lease to other cultivators and cannabusiness owners. Until the adjudication is complete, he is operating under a substitute water supply plan (SWSP), authorized by the county and the Division of Water Resources. SWSPs are also being used by many other cultivators in the area, especially in areas where wells are

¹³⁷ *That's over 650 million gallons.*

regulated under Rule 14. These well users are waiting for water rights adjudication or groundwater well reclassification.

While the Pueblo Board of Water Works was developing their policies, nearby Saint Charles Mesa Water District was developing theirs. The Board initially passed a resolution prohibiting the supply of water to marijuana establishments in the district's service area Zone 1, and the justification was due to federal and non-federal comingling.¹³⁸ The Bessemer Ditch, surface water to which the Water District owns rights, separates Zone 1 from Zone 2 (formerly Huerfano Water District).

In the summer of 2014, Saint Charles Mesa Water District (SCMWD) replaced their prohibition on Zone 1 supplies with a less stringent policy: Section 5.08 "Use of Water in Conjunction with cultivation, manufacture, distribution, testing and sale of medical marijuana, retail marijuana, medical marijuana-infused products and/or retail marijuana-infused products."¹³⁹ This policy permitted servicing marijuana businesses but required documentation and permits from the County and is only available to licensed grows, not home caregiver sites.¹⁴⁰ A limited number of cultivations have been supplied in that area, with other areas supplied by the city water utility. The district's manager described the water supply challenges in part of the service area, either due to infrastructure or legal water availability:

We send a letter to the board of waterworks that says that we can't serve them because we are at a limitation or that property doesn't

¹³⁸ Chris Woodka, "Water District Votes 'Dry' on Pot," *The Pueblo Chieftain*, March 22, 2014.

¹³⁹ St. Charles Mesa Water District Resolution 2014-10

¹⁴⁰ *Water utilities struggle to monitor unlicensed home caregiver cultivations. These are discussed more in Chapter 7.*

even have a water tap. And we have no problem with the board of waterworks selling them water.

Additionally, cultivators are required to purchase new water meters from the District, and the meters report water use daily electronically, while also providing the district an estimate of daily and monthly water consumption as part of the operation. SCMWD reserved the right to terminate contracts with marijuana establishments as per federal or state requirements or policies, and also reserved the right to cap the number of serviced cannabusinesses.

Pueblo West Metropolitan District's water sources—mainly surface water rights and aquifer wells—are located away from Pueblo Reservoir and other Reclamation outflows. This situation makes the Water Authority unaffected by Reclamation Temporary Release 63. The easily available water, paired with amenable zoning in this part of Pueblo County, may explain the recent rise of marijuana establishments in the area. As Pueblo West's water is not from a federal source, one cultivator operating in the district discussed using the district as a water supply and how obtaining legal water was quite easy:

Pueblo West isn't on federal water, so that's not a problem for us...no bringing it in or drilling wells or anything. It's tap water. You turn the faucet on, run it through a [reverse osmosis] machine, and pump it out to the containers that our growers use to mix the nutrients. It's pretty simple.

Acquiring a letter for water supply was also easy in Pueblo West, due to the availability of water. The ease of acquiring a water source letter in Pueblo West, in conjunction with available land and zoning in favor of the industry, may explain the high number of water source letters—49 occurring in filed ZCRMs—from the District during 2013-2015.

Surface and Well Use

For the most part, marijuana establishments have the same surface water and well regulations and are subject to the same irrigation laws and rules within Colorado, including water rights administration and the prior appropriation doctrine. The Colorado State Engineer determined that irrigation water could be used for marijuana in Colorado as a result of its legalization, but ditches and wells used by cannabis cultivators are typically more junior water rights and are usually used as primary replacement sources. Irrigation wells are reserved for agricultural uses (e.g., potatoes, cattle, and geraniums) but cannot be used to water marijuana plants, leaving growers forced to use commercial wells. Irrigation water can no longer be used for greenhouse cooling racks, other technologies, or building operations (e.g., employee restrooms or drinking fountains), so commercial water must also be supplied for those uses.

Additionally, the state recently changed policy to create an irrigation season with restrictions for all farmers, regulating when irrigation water can and cannot be used. Now, commercial wells must be used to irrigate crops after the end of the irrigation season on November 15 until the next season begins on March 15. Marijuana cultivators, and farmers of all types, are able to store water under an optional winter storage program. One area cultivator, who entered the industry due to his ownership of native surface water rights, described the state's regulations on using irrigation water for marijuana cultivation:

I irrigate year round. Sort of, you know, you need it in the winter, you don't need as much, let's store it...somehow they took a liberty, and now they've told us we have an irrigation season...

The change in policy has complicated how many cultivators and non-marijuana farmers use water. One cultivator expressed his frustration with the dichotomy of water uses on a single site:

On our outdoor [cultivation], we can irrigate during the irrigation season. But the bathrooms...are a commercial use because that's what the state gave it. Now, Regional Building requires you to build restrooms...because this has got a commercial connotation to it, bathrooms have to use commercial water. So, I actually do have a commercial source in addition to my irrigation source. Never had to do that before...this is because of the designation of commercial by the state has implications at the county level. The Regional Building Department collects a fee if I need to get a permit to build a bathroom. It's all about fees. I hate to cynical but it's all about it. The state called it commercial because they wanted to be able to tax it differently than they tax corn.

Overall, the acquisition of water rights or use of privately held rights may be a growing industry trend. Multiple cultivators and others involved in the supply of water through surface rights mentioned the future involving cultivators simply acquiring water rights shares in ditch companies as viable means to obtaining non-federal water sources, as one manager from a well users group mentions:

I have that conversation with a lot of [growers], "You've got to understand that this isn't a guaranteed, every year," But they want to grow and expand. "Be careful, because you may get into a time where

there's no water available," so a lot of them are going out trying to either buy surface-water rights...that's where I think a lot of them are going to be, is trying to buy other water rights or shares in mutually shared ditch company. Something that guarantees them some source of water.

Grows in other basins and counties have already begun adjudication procedures to guarantee a long-term source of reliable water.

Water Supply: An Interconnected System

Pueblo County Planning & Development zoning review policy includes water supply letters, but the communication and coordination between water providers came up repeatedly in interviews. Water utilities share information with each other, such as the amount of acre-feet (or gallons) of water sought by new operations, the ability or willingness to serve commercial marijuana accounts, and the suitability of using surface, well, or replacement water. At the same time, a lack of cohesion between government entities and utilities was highlighted as a constraint that could hinder further success. Although county officials praised the inclusion of a water supply letter requirement, when asked, they also expressed an interest in requiring a letter from the respective power company serving the area of a proposed marijuana development, particularly for indoor cultivations. Although power companies are not even included in subdivision review applications, the planning director noted the willingness to accept comments from other stakeholders when reviewing developments; "if they want to comment and that's cool. If not, then they don't have to. We don't want to encumber other departments or agencies with required letters." Using the

marijuana zoning review process as a foundation for other water-land use decision-making in the future, the county's economic development director commented on the importance of increasing the use of GIS to keep the development review machine running smoothly:

GIS is vital...I think we need to find a way for all of our water rights management to be handled also in GIS, mapping and showing where senior water right holders are, what kinds of rights that they have, where our dry-up acreage is, it's a complicated picture with augmentation and the ability for folks to truck water in...What we really want to be able to do, is articulate visually the best use of every piece of land in the community.

The County has GIS data interconnectivity with some participating water utilities already, but there is a major opportunity for improved workflow through data sharing moving forward, which will be discussed in Chapter 7.

The Rise of Hemp

As a result of Amendment 64, Colorado also legalized industrial hemp, allowing farmers to grow, process, and sell hemp and hemp products. Cultivation of marijuana's low-THC cousin is licensed by the Colorado Department of Agriculture. Additionally, Pueblo County developed hemp cultivation land use regulations, most likely the first of their kind nationwide. These regulations, predominantly buffers, were written out of caution due to concern for land use conflict between hemp and marijuana. Buffers and additional restrictions on outdoor male and hermaphrodite plants were written to alleviate cross-pollination risk. Cultivators and local leaders did express limited concerns about cross-

pollination and the continued need for land use regulations such as buffers and site requirements to deter seed spreading but were also welcoming to a potential industry. After conducting thorough research for the development of hemp land use regulations, planning staff noted the lack of scientific evidence of cross-pollination actually occurring, but did indicate the need for further research. The regulations were drafted and approved with input from the hemp and marijuana industries, and five-mile buffers for hemp sites were selected.

A separate zoning compliance review, the Zoning Compliance Review Hemp (ZCRH) was established, and like its counterpart for marijuana, the ZCRH requires information for the building and health departments, such as water supply and the site (indoor or outdoor). It has a lower application than marijuana—\$150—because the review process is not as intense as the ZCRM for planning staff. Leaders expected farmers to obtain hemp licenses to add an additional cash crop. At this time, six applications have been submitted and approved, and all of them are for female plants. That number may increase as the market continues to evolve nationwide, with an expectation that the local hemp market is focused on medical hemp and not “rope and soap” industrial hemp. Some are outdoors, and some are indoors or in greenhouses. Presently, the same restrictions on irrigation and water supply apply to hemp as they do marijuana, including the current federal water ban.

Local Economic Effects and the Future of Pueblo’s Marijuana Market

While opposition has gathered to fight legal marijuana in Pueblo County, the future is anticipated to build on the successes that have already happened. Commissioner Sal Pace described the regulatory system, saying:

It's been hugely successful. It's been the biggest new economic driver in our community for the last couple years. The jobs impact has been undeniable. The construction impact has been undeniable. The real estate impact has been undeniable. The tens of millions of dollars that have come here from out of state, to invest in our community, has been undeniable. There is no new business impacting our community any more than cannabis is.

At the same time, he stressed the initial challenge of differentiating between medical and retail dispensaries, and the effect of that decision moving forward:

I wish that we had initially treated medical and retail stores the same, and that we had limited them to a smaller number than we have. I think that the economic benefits of the storefronts are minuscule compared to what we're seeing with cultivations and MIPs. Yet, because of the storefronts, it's impacting the political climate. That impacts the entire economy... I think that [some communities may] realize that if they're in a similar position to have the same type of boom we're having—with outdoor cultivations—it is worthwhile to let the perceived impact of the storefronts kneecap the real economic driver.

Local officials discussed legalization's effects on the region and the local economy, which was still struggling with the recession at the time of Amendment 64's passage. Currently, there is no available warehouse space in the county:

Every last available building in all of Pueblo County that had the appropriate zoning for an indoor grow operation's been snatched up. And is either actively growing right now or is in the process of becoming a grow, or being held by prospectors who are hoping for them to become grows. That's it. All the warehouse space has done that. And all of the warehouse space that's zoned appropriately, you know, in the County—in B-4 zoning, our predominate category for that, has done that.

According to local officials, in 2015, 64% of all construction permits outside of city limits were for cannabis related construction. Including the city, such construction accounted for 40% of permits. Land use officials highlighted how the new industry has already brought in significant increases in investment, wealth, and real estate values. One government official discussed this, noting “we hear arguments about decreasing property values, when all the evidence shows that property values go up when there's a perception that the property is acceptable for cannabis.” Local leaders believe the majority of concerns about the local marijuana market are political in nature; “if you want a sustaining economy, you want the public on your side,” noted one official. Dispensaries are able to move into more rural and less densely populated areas, but many of these areas, zoned agricultural, take on the look and feel of residential areas, so attention to concerns of ranchettes, councils of architecture, and homeowners' associations will be necessary to move forward as the market expands. The successes moving forward are anticipated to only grow, but the biggest drawback and constraint identified by interview participants is best described by one official as, “a century of misinformation spread by the federal government.”

As full marijuana legalization continues nationwide, county officials are considering the edge they'll maintain due to having existing marijuana industry infrastructure in place, including developed and operating businesses, as well as a developed, tested, and revised zoning and licensing system. Officials and industry members see this existing system as providing an economic edge and an ability to eventually ship marijuana products elsewhere, both in and out of Colorado, in due time. Both in media¹⁴¹ and in interviews with local officials and growers, the idea of a "Pueblo-grown" marijuana brand came up. As an early and widespread adopter, the community may benefit from this greatly if appellations become an industry mainstay, similar to wine regions.

Looking forward, the moratorium on dispensary locations is still debatable. Although the moratorium is currently slated to expire in early 2017, there is a possibility of it being extended on a year-to-year basis, or biennially. Between the potential for new moratoria, the upcoming presidential election leading to a new administration in Washington, and Cannabis' continued placement in federal Schedule I, there is uncertainty for the industry. At the same time, fears of an industry collapse were downplayed by most participants, but one did question what would happen if the "whole thing was shut down" or if the boom turned to a bust: "What would happen, would we have hundreds of acres of fenced lots with cameras just sitting here?"

Leaders described the prospect for marijuana's future economic impacts and compared it to other communities in Southern Colorado. Some communities have only permitted dispensaries, but the real economic potential lies in the ability to develop research and become the Research Triangle, Silicon Valley, or Napa Valley of cannabis, and research begins with collaboration with local institutions of higher education.

¹⁴¹ Joel Warner, "The Silicon Valley of Marijuana," *High Country News*, August 17, 2015,

To reach a long-term goal of becoming a cannabis research region, County officials, industry leaders, and Colorado State University Pueblo have been working to develop a Cannabis Center of Excellence. This research institute will study cannabis and cannabis compounds such as cannabidiol (also called CBD) and conduct other health and plant science based research on cannabis. The center's launch is being partially funded by new county marijuana excise tax revenue, creating a long-term investment in the region. The local industry has also donated over \$200,000 for this endeavor. Other revenue from this new excise tax will also be used to send local high school students to college through a new scholarship fund.

Chapter 7: Cannabis Regulation in a Dynamic Planning Environment

The entire cannabis plant remains a Schedule I substance illegal under federal law, and with no *federally recognized* medical value is likely will remain so for the near future. Cannabis legalization in all of its forms will continue to expand by virtue of voter-approved ballot measure and legislative action, in spite of its current federal status. Some states without medical marijuana programs may start by instituting those, while states with existing medical markets may open their markets for adult use. Other states may see ballot measures transitioning from no commercial marijuana industry to a new market with medical and retail components. At the same time, marijuana's low-THC relative, hemp, will see new frontiers and opportunities for industrial cultivation and processing. The prospect of new economic opportunities—new jobs, investment in communities, and another source of tax revenue - will come along with legalization.

As legalization activity grows at the state level, federal supremacy in drug policy, an ongoing Drug War, and negative perception will complicate implementation efforts and the regulation of a new industry. States are leading the way for regulation, with local governments like Pueblo County stepping in to aid in the regulation of the cannabis cultivation and the marijuana value chain. This chapter will offer suggestions for local authorities entering new planning territory: planning for cannabis, especially while federal prohibition policies continue.

Complications for Regulating an Illegal Industry

When marijuana becomes legal in a jurisdiction, regulators and leaders are tasked with the challenge of bringing marijuana into a transparent, controlled landscape. States

continue to act on their own, and communities in those states should keep in mind the role and function of planning departments, especially when regulating in the absence of federal (DEA, FDA) guidance on *legal* marijuana policies. Bringing a highly controlled substance into the neighborhood economy is not an easy task, but by taking a holistic approach with concern for community context, local officials can safely control cannabis cultivation and sale, and potentially turn legal marijuana into an economic driver. Some tips and guidelines are included below.

Think local: No “one size fits all” approach will effectively regulate this nascent industry nor cover every community in a given state. Some communities may choose to follow in the path of Pueblo County, aiming for legal marijuana to be an economic driver. Others may wish to focus on agriculture and develop a local brand through the promotion of local strains¹⁴² and agricultural land uses, becoming the next Napa Valley or Silicon Valley of marijuana and potentially paving the way to govern selection of strain types based on local terroir. Pueblo County’s current land use regulations and dispensary moratorium reflect the goal of emphasizing the permitting of cultivation and processing sites, while limiting points of sale, at least for now.

Other communities may wish to utilize Planned Unit Development zoning to become craft marijuana hubs, specializing by promoting small-scale cultivation, on-site extraction, and local sale similar to some cities with prominent craft beer scenes. Some towns may wish to only welcome dispensary sites or limit marijuana sales to only medical establishments.

¹⁴² *Although this would be unprecedented, a community somewhere will one day emerge as the Bordeaux of OG Kush.*

These decisions should be made with public input, including advice from the industry and citizens. Prior to federal drug policy change, a combination of state and local regulations will have already shaped the industry greatly.

Be cautious and approach legalization slowly: As marijuana remains illegal under federal law and continues to have a negative stigma, states are moving to set the parameters of legalization without much oversight or help from Washington. While some exceptions currently exist, such as the current *Cole Memorandum* guidance or the Reclamation ban on federal water use, other considerations are ignored. Moratoria, a tool commonly used to temporarily limit local marijuana establishments from opening, are an option for communities. Moratoria can be used while communities watch neighboring jurisdictions, allowing for time to determine the best path forward. Other decisions, like lot sizes, cultivation canopy area, or plant counts can be determined over a longer period of time. Some industry trends and grower needs, such as the rise of mixed-use sites incorporating cultivation and sale, may make planning and regulating new land uses more difficult. Additionally, communities should take time to consider economic gains and complications that may arise, such as increased traffic, new electricity demands for indoor grows and extraction operations, and economic change.

Use a holistic and inclusive regulatory system: All potential players should be included in the conversation early on, including water and energy utilities and building code enforcement and public health officials. In the case of Pueblo County, water utility officials are in the loop throughout some of the development process. When communities make any type of development decision or zoning change, land use officials and utility providers should be in some type of communication.

Legalization in Pueblo County has brought to the surface the importance of communication at the planning-water supply intersection, especially in the arid Southwest. While County officials decided to make sweeping changes to the zoning code, federal constraints limited the amount of water available to the industry. This could be disastrous in communities that only have access to water supplied by the Bureau of Reclamation. While this problem will most likely end as a result of federal drug policy change, consideration for other constraints, such as drought, remain. Communities and the water utilities within them should plan for times of unavailable water—by federal order, or by natural occurrence—by discussing the portfolio of available water sources in each county, their reliabilities, and their potential limitations. This is not limited merely to the Southwest but can be applied to other regions as well, where droughts, shortages, mechanical failures, chemical spills, and other incidents can leave cities and towns without water. Having an idea of alternative water sources in advance of industry change or disaster can aid communities greatly.

Law enforcement should also be included if marijuana is transitioning out of a gray market and into a regulated one (see section below).

Markets in Transition and Home Caregiver Cultivation

For over twenty years, various states have seen differing degrees of marijuana legalization play out. Early adopters, such as California and Colorado, through Proposition 215 and Constitutional Amendment 20 respectively, created informal cultivation and distribution models. Largely, medical marijuana access typically meant freedom from state-level criminal prosecution for cultivation or possession. As a result of a variety of concerns from stakeholders, including medical marijuana patients and law enforcement, commercial

markets with state and locally issued licenses emerged. However, not all permitted marijuana was brought into the new regulatory system; a series of not-for-profit home caregiver grows remain throughout Colorado even after retail legalization through Amendment 64 in 2012.

States with longer-term unregulated medical marijuana markets are now forced to adapt and evolve into a new era with commercial markets. States that adopted medical marijuana programs later have moved toward a licensed cultivator and dispensary model, with controls on land use, cultivation, extraction, and sale, although some states permit caregivers to grow for patients. Regardless of program structure, the existence of voter-approved medical and retail marijuana regulatory regimes reflects a broader social acceptance of marijuana, which now also means non-medical, retail marijuana legalization. Retail legalization includes broader regulatory challenges, and for local planning officials that includes planning for new uses of farmland, real estate space, water, and energy, among others.

A new era of marijuana regulation has emerged, and marijuana is less frequently treated like a criminal issue and more as a business one. Planning departments are caught in the middle, regulating grows and other segments of the marijuana value chain. In Pueblo County, a desire arose to regulate unlicensed marijuana cultivation activity. Given federal scrutiny over the state's operation of a retail marijuana market operating in violation of federal law and the risk for illicit marijuana to exit the state under the guise of medical caregiver cultivation, some unlicensed cultivation is considered legitimate under the state's marijuana laws:

Home caregiver grows: These involve a caregiver growing for a small number of patients and distributing medical marijuana to patients for no

compensation.¹⁴³ Caregivers continue to be an important piece of the medical marijuana landscape, especially in jurisdictions that have prohibited or restricted licensed marijuana establishments either through local bans or other land use tools. In these communities, patients have an option to receive medical marijuana from caregivers operating under Constitutional Amendment 20. Local bans and other anti-marijuana policies will most likely change in the future as federal policy shifts in the future, leaving the long-term fate of home caregivers, alongside the rest of the industry, to be determined.

Personal Grows: These are permitted under the *Regulate Marijuana like Alcohol Act of 2012* (Amendment 64). Up to six flowering plants may be grown and cultivated in a closed, private space so long as they are not for sale.¹⁴⁴

Caregiver operations or similar unlicensed cultivation models exist in other states, and including these cultivation participants in policy transitions will be important. Bringing unlicensed cultivation and distribution activity into regulatory regimes will remain a prevalent concern for local officials and planners during the era of the *Cole Memorandum*, and prior to further cannabis rescheduling, descheduling, or other federal policy shifts.

The existence of home caregiver status has also provided cover for illicit activity, much to the frustration of local officials in Pueblo. A trend throughout Colorado, notably in Pueblo County, is the rise of illegal marijuana production occurring in home occupation

¹⁴³ Home caregivers do not receive licenses from the state Marijuana Enforcement Division, but are required to register their grows with the Colorado Department of Public Health and the Environment. Expanded regulations for medical marijuana caregivers, including mandatory registration with the Marijuana Enforcement Division, take effect in January 2017 under SB 15-014. Additionally, a public “voluntary caregiver registry” exists for patients to find primary caregivers in their area.

¹⁴⁴ Colo. Const. art. 18, sec. 16.

grows, frequently for out of state shipping. A spring 2016 spate of drug busts in Pueblo County led to headlines such as “*Is Pueblo the Drug Bust Capital of Colorado?*”¹⁴⁵ From late-March to June 2016, 35 arrests,¹⁴⁶ many of which were residents of other states, including at least 25 with connections to Florida,¹⁴⁷ and raids tied to these arrests included the confiscation of nearly 6,000 cannabis plants. The Pueblo County Sheriff’s Department reported that a suspect in one arrest “failed to produce paperwork to substantiate the grow”¹⁴⁸ and was arrested on “on suspicion of possession with the intent to manufacture and cultivate marijuana,”¹⁴⁹ suggesting he did not have a home caregiver registration.

Some of the raids mentioned in the news articles¹⁵⁰ occurred as a result of tips or complaints. During field interviews in Pueblo, County officials and water regulators highlighted some of the reasons for complaints or tips leading to busts. Sometimes, neighbors file zoning complaints with the county’s Planning & Development Department, including calls about noise, unusual traffic on rural roads, barking dogs (security mechanisms), and new tall fences. Other times, water regulators monitoring residential well use will notice a rise in mean monthly water consumption, suggesting a new demand for water: plants. There are different mechanisms to responding to these findings; County Planning & Development sends a land use and zoning enforcement agent to the site, sometimes with the assistance of the Sheriff’s Department. Water regulators who are left without law enforcement authority, refer these situations to the Sheriff’s Department or other law enforcement for investigation. In addition to complaints and increased water consumption or spikes in power consumption

¹⁴⁵ Michael Roberts, “Is Pueblo the Drug Bust Capital of Colorado?” *Westword*, June 9, 2016.

¹⁴⁶ *Ibid.*

¹⁴⁷ “7 Arrested in Pueblo County Marijuana Busts.” KRDO. May 18, 2016. Accessed June 21, 2016, <http://www.krdo.com/news/7-arrested-in-pueblo-county-marijuana-busts/39616366>.

¹⁴⁸ Michael Roberts, “Is Pueblo the Drug Bust Capital of Colorado?” June 9, 2016.

¹⁴⁹ *Ibid.*

¹⁵⁰ *Ibid.*

also may indicate unlawful cultivation activity. Local news coverage in Pueblo highlighted this while discussing the series of arrests and raids in early 2016, noting that “large residential marijuana grows use five or six times” the Colorado residential average electricity use of 687 kilowatt-hours per month.¹⁵¹ A raid occurred after the local electric utility reported one residence pulling 5,000 or more kilowatt-hours in a month; however as far as monitoring unlicensed grows, there is no routine monitoring of electricity usage.¹⁵²

Pueblo County’s response to mitigate these unlicensed grows includes restrictions on home occupations, which the zoning code calls Marijuana Home Grows (Non-Licensed Grows). These include all medical caregivers and personal cultivation (medical or not), occurring in residential structures. This excludes licensed cultivators, processors, and dispensaries. The county’s home grow plant count limits are 18 plants for a single-family dwelling property, 12 plants for any unit of a multi-family dwelling in residential zone districts, and 36 plants for properties in agricultural and industrial zone districts. County code also specifies additional restrictions, including limitations on extraction and processing.¹⁵³ These limits are stricter than state-imposed plant count limits, such as the 99-plant limit per patient for caregivers.

Currently, only the state Department of Public Health and the Environment has records on registered home caregiver sites, leaving local officials in the dark on the legal status of sites. Only after law enforcement arrives on site is it determined if the site is a legal marijuana home grow in accordance with county zoning and plant count limits, or if it is

¹⁵¹ Kaitlin Durbin, “Utility Companies, Neighbors Help Police Find Illegal Colorado Marijuana Grows,” *The Gazette*, June 11, 2016.

¹⁵² *Ibid.*

¹⁵³ Pueblo County Code, Chapter 17.119.

unlawful. Some of the Spring 2016 raids resulted in no arrests or plant confiscations due to plant counts remaining under county-imposed limits.¹⁵⁴

Looking forward, efforts by the State of Colorado and Pueblo County to tighten down on unlicensed cultivation may be a guide for other states in similar regulatory transition situations. Home grows or other not-for-profit (not-for compensation) cultivations, such as collectives, will be forced to reorganize or obtain state or local licenses. In addition to plant count limitations, local planning officials may be forced to coordinate with law enforcement to ensure compliance.

¹⁵⁴ Michael Roberts, “Is Pueblo the Drug Bust Capital of Colorado?” June 9, 2016.

Chapter 8: Conclusion and Future Research Questions

Conclusion

Overall, a combination of wide-open and business-friendly zoning has allowed for the continued evolution of existing medical marijuana businesses, alongside the development of new retail marijuana businesses, in Pueblo County. Regulations are rooted in existing land use and licensing paradigms for alcohol stores and medical marijuana establishments, while industry changes may impact the effectiveness of these regulations. The uncertainty of local politics, including efforts to block licenses and further industry growth, is another cause for concern, while problems stemming from federal water policy, such as water availability, continues to be a limiting factor. As such the development and future of the market will be uncertain as it continues to evolve and mature, even as local leaders and cultivators have hope for a successful economic outcome.

Problems & Opportunities for Innovation

Simplification and refinement of marijuana land uses: Given the evolution of Colorado’s marijuana market, the rise of dual-license establishments, and two nearly identical County regulatory systems for each step of the marijuana value chain, the county should consider streamlining and simplifying Title 17 zoning to account for both state constitutional amendments—Amendment 20 for medical marijuana and Amendment 64 for retail marijuana.

Consolidate Zoning: The County Zoning code can define the establishments while recognizing the lack of difference between medical and retail marijuana as nominal land uses, while leaving the supplemental zoning regulations and licensing procedures to account for

and regulate the differences. As shown in *Table 3*, there are two classifications of each marijuana land use in the marijuana value chain. *Table 4* shows proposed streamlined marijuana land uses, which are informed by suggestions of local leaders suggesting the direction they see the market heading in Pueblo County (and in Colorado).

<i>Current MJ Land Uses</i> ¹⁵⁵	<i>Medical Marijuana</i>	<i>Retail Marijuana</i>
Cultivation	Contiguous Cultivation	Contiguous Cultivation
	Noncontiguous Cultivation	Noncontiguous Cultivation
Processing	MMJ-Infused Product Manufacturer	RMJ-Infused Product Manufacturer
Storage	Storage Warehouse	
Testing	(none)	RMJ Testing Facility
Sale (Dispensary)	MMJ Center	RMJ Store

Figure 13. Current Marijuana Land Uses.

<i>Suggested MJ Land Use</i>	<i>All Marijuana Establishments</i>	
Cultivation	Marijuana Cultivation (Contiguous or Non-Contiguous)	
Processing	Marijuana-Infused Product Manufacturer	
Storage	Storage Warehouse	
Testing	(none) ¹⁵⁶	MJ Testing Facility
Sale (Dispensary)	Marijuana Dispensary	

Figure 14. Suggested Marijuana Land Uses.

A trend toward consolidated or combined marijuana establishments, focusing on cultivating, processing, and selling marijuana on one site, has emerged. The current land use classification accounts for some consolidated marijuana establishments, including optional premises cultivations, but does not include extraction facilities. An increase of Planned Unit Development (PUD) filings illustrates this industry change. Increased filings of PUDs will

¹⁵⁵Pueblo County Code, Title 17.

¹⁵⁶There is currently no land use designated as a “Medical Marijuana Testing Facility” as there was no requirement to sample products for potency, pesticides, and other quality control concerns. MMJ testing requirements in Colorado begin July 1, 2016. The existing “RMJ Testing Facility” from *Table 3* has been replaced with “MJ Testing Facility” to account for this upcoming regulatory change.

result in Pueblo County having to incur the costs for additional review processes and hearings. A new land use designation with different restrictions, such as buffers, can be developed to respond to safety and security concerns and also complement the surrounding community. These spaces, “Craft Marijuana Establishments,” behave in some ways comparably to wine estates or craft breweries, with occasional onsite cultivation, as well as production and sale. This industry trend may best be managed by a new land use designation.

Solve Data Collection Problems: Now that the County’s Marijuana Licensing has been shifted from the County Clerk’s office to the Department of Planning & Development, with new positions including Licensing Agent and Secretary being filled soon, the County has a new opportunity to build upon development review data and create a holistic process to better understand marijuana cultivation in Pueblo County. Now, after ZCRM approval, applicants will be able to apply for County marijuana licenses in the same department. Given the need for cannabis plant consumptive use data, the county should consider establishing an annual survey to assess water usage within the industry, which could include hemp; this data, which could be informed partly by meter readings, could be collected and analyzed by a combination of Planning and Economic Development & GIS staff and made available to both the public and Pueblo County’s water suppliers. Additionally, the licensing process can be attached to the zoning compliance process, and cultivators expressed interest in being able to use a web platform to renew licenses or apply for new ones.

Improve Communication Between Water and Land Use Entities: One frequent concern was a lack of communication of data between Pueblo County Planning & Development and water utilities and regulators. Individual water utilities and suppliers spend a lot of time having explanatory conversations with potential cannabis growers and startups,

providing information on water rights and allocations, as well as their policies, to potential customers. This is an area for industry, water suppliers, and land use officials to cooperatively share data on projected and actual water use as well as to develop a “water user guide” for licensed cannabusinesses in arid Colorado. The County (Planning & Development, Economic Development) can utilize the license renewal period as a means to collect information on annual water usage during and after the irrigation season, as well as non-proprietary plant data and crop output (yield). This information can be used by local utilities to project water needs while aiding industry and other markets by providing data.

Moratoria and Regulations: The growth of centers and stores was limited by a moratorium in early 2015, stopping new medical marijuana centers and retail marijuana stores. It is set to expire in January 2017, but there is potential for an extension of this moratorium to continue limiting the expansion of new marijuana dispensaries. The moratoria could be expanded upon to include new PUD applications and even cap contiguous and non-contiguous cultivations. These have strained the local real estate market, although new construction is up.

Common Water Supply Application: Each water provider (utility, State, etc.), has their own process for applicants to request a water supply letter to the County. Some water regulators and utility representatives suggested the establishment of a common water supply application, based on the State Division of Water Resources letter to County officials (2014), *Marijuana Grow Operations Proof of Water Source Applicant Considerations*. This application could be built with the needs of each water provider while also aiding in the streamlining of collected data, making the process move more smoothly for business owners and county/water officials. The letter and form are attached in **Appendix I**.

Future Research Questions

Additional research is needed in the development of local marijuana land use and water allocation policies and their impacts on the cultivation, processing, and sale of marijuana (and hemp). Some areas for further research include:

- How should medical and retail market types be regulated and analyzed? As the marijuana market in Pueblo County continues to mature, in what ways will dual-license establishments be required to assess the need for two separate, identical land use regulatory systems?
- Upon the resolution of Reclamation Policy (Temporary Release 63), how should the effects of new water availability in a market be analyzed?
- As cannabis strains and outdoor pollination risk are better understood, how can the state and Pueblo County reassess the current five-mile buffer for some hemp facilities? What kind of scientific and policy analysis will best inform this?

APPENDIX A: Interview Questions

Land Use Questions

1. What is your role in regulating marijuana cultivation or sales in Pueblo County?
2. How did Pueblo County begin discussing regulating marijuana?
3. What are the differences between land use regulations for retail and medical marijuana establishments?
4. How are land use regulations shaping cannabis cultivation?
5. How are marijuana establishments regulated differently than other land uses than “adult” or other “vice” land uses?
6. Looking forward to the future of the regulated marijuana industry, what concerns might the land use regulatory system need to address?
 - a. How do you think the regulatory system will change?
7. How does this system work?
 - a. What are its challenges?
8. In what ways could the system be improved?
9. What could be done to improve the workflow between the county and water regulators?
10. What uncertainties or issues have I missed?

Additional Questions for Planning Director and Commissioner:

- A. How were the regulations originally proposed and developed?
- B. What land use concerns were the marijuana regulations designed to address?
- C. What land use issues arise from federal law? (Such as banking regulations, on marijuana businesses)
- D. What are the land use conflicts you see with the emerging hemp industry?

Additional Questions for Economic Development Director:

- A. How has marijuana changed the local economy?
- B. How does Pueblo County promote itself as an emerging marijuana cultivation market?
- C. Is there anything that may limit the emerging marijuana cultivation industry in the next 1-2 years?
 - a. How about in the next 5-10 years?
- D. What do the coming years look like for Pueblo County, and the marijuana industry within it?

Water Regulator Questions

1. What laws and policies govern the allocation and use of water for Pueblo County marijuana cultivations?
2. What did your [*utility or agency*] do in response to the emerging marijuana industry?
3. How does your water [*utility or agency*] work with others in the county?
4. How does your water [*utility or agency*] work with others in the county to supply water to cannabis cultivators/establishments?
5. In what ways does the regulatory system work successfully?
6. In what ways can this system be improved?
7. Looking forward to the future of the marijuana industry, what concerns will the water [*allocation/regulation*] system need to address? How will it change?
8. How do you [*and/or your organization's board*] feel about the efficiency of water consumption by cannabis plants?
9. What could be done to improve the workflow between the county and other water utilities?
10. What are the impacts of drought? How will your [*utility or agency*] work with marijuana cultivators if the drought worsens?
11. What uncertainties or issues have I missed?

Cultivator Case Study Questions

1. How did you get in to marijuana cultivation (the industry)?
2. How did you select your site?
3. Describe your process obtaining County approvals for this cultivation.
4. In what ways does the zoning/land use approval process meet your needs?
5. How would you improve the zoning/land use approval process for marijuana growers/establishments?
6. From where did you obtain a source of water for this site?
7. What regulations restrict your ability to secure or use water at this site?
8. What are your land use and water concerns as this industry emerges?
9. Are you concerned about the emergence of a hemp market in Pueblo County?
10. What uncertainties or issues have I missed?

**APPENDIX B:
Zoning Compliance
Review Marijuana
Form**

ZONING COMPLIANCE REVIEW MARIJUANA (ZCRM)

MEDICAL MARIJUANA (MMJ) APPLICATION

RETAIL MARIJUANA (RMJ) APPLICATION

PLEASE READ NOTE AND SIGN BELOW:

THE SUBMITTED APPLICATION PACKAGE REQUIRES SPECIFIC REPORTS/INFORMATION WHICH MAY NOT BE ADEQUATE AS DETERMINED THROUGH THE REVIEW PROCESS. ADDITIONAL INFORMATION MAY BE REQUIRED. ALSO, THE ACCEPTANCE OF THE APPLICATION PACKAGE DOES NOT MEAN THE SPECIFIC INFORMATION HAS BEEN APPROVED AND IN FINAL FORM. REVISIONS TO THE MAP AND/OR REPORTS MAY BE REQUIRED. YOUR SIGNATURE BELOW INDICATES ACCEPTANCE OF THESE CONDITIONS.

AN APPROVED ZONING COMPLIANCE REVIEW MARIJUANA SHALL EXPIRE SIX (6) MONTHS FROM THE DATE OF APPROVAL UNLESS AN APPLICATION FOR LICENSURE UNDER CHAPTER 5.12 OF THE PUEBLO COUNTY CODE HAS BEEN SUBMITTED.

Date: _____ Type of Application: _____

Zoning Compliance Review Marijuana No.

Business Owner's Signature

NOTICE: All information, including emails, submitted to Pueblo County Department of Planning and Development is considered public record and is therefore available for public review.

Assessor's Tax Parcel No. _____

1. Please list the name, address, and telephone number(s) of the following (some may not be applicable):

Business Owner(s) _____
Address/Zip: _____
Telephone Number(s): _____
Email Address: _____

Property Owner(s): _____
Address/Zip: _____
Telephone Number(s): _____
Email Address: _____

Signed letter/lease agreement/purchase agreement from owner allowing the MMJ/RMJ Business

2. Zone district _____

3. Legal Description of the property _____
(If lengthy, please attached as a separate page)
 4. Address of the property _____
 5. Please list any previous applications (e.g., map amendments, zoning variances, special use permits, subdivision variances) in connection with this property:
-
-

APPLICATION CHECKLIST

The Following Information Must Be Included With The ZCRM Application:

One (1) Map May Contain All The Following Information (1-5)

Maps are to be 11"x17" or smaller with no PDF required.

Larger than 11"x17" requires a PDF to be submitted.

Google Aerial May Be Used For the Map With The 250-Foot Dimension Lines Shown

- _____ 1. Map drawn to scale identifying location of MMJ/RMJ business;
- _____ 2. Map drawn to scale identifying location of MMJ/RMJ business with the 250-foot perimeter buffer from walls of MMJ/RMJ business;
- _____ 3. Map drawn to scale identifies all surrounding zone districts within the 250-foot perimeter buffer from walls of MMJ/RMJ business;
- _____ 4. Map drawn to scale identifies all specifically named businesses and uses, not just listed as retail, commercial, etc., within the 250-foot perimeter buffer from wall of MMJ/RMJ business;
- _____ 5. Map shows North arrow and scale;
- _____ 6. A separate plot plan map, drawn to scale showing all existing structures with dimensions, uses and distances to property line, and all proposed structures with dimensions uses, and distances to property line.
- _____ 7. If exact location with purposed MMJ structure isn't known at this time, you may designate the area as a square, rectangle on plot plan with dimensions, uses, and distances to the property line.
- _____ 8. Proof of property ownership by recorded deed.
- _____ 9. Signed letter from owner of the property allowing the MMJ/RMJ business and identify the MMJ/RMJ Marijuana use's.
- _____ 10. Signed lease agreement/purchase agreement with MMJ/RMJ business named in the lease agreement/proposed property owner in the purchase agreement, and identify the marijuana use.

_____ 11. _____ consumptive use (gallons/day) for cultivation facility (grow);¹⁰⁵

_____ 12. Proof of water source:

_____ a. Municipal supply

_____ i.) Written approval from municipal supplier stating the commercial marijuana use is permitted and water will be supplied for the specific marijuana use (center/store, cultivation, mips); stating the amount of water to be used for the cultivation facility (grow) can be supplied.

_____ b. Hauled water

_____ i.) Identify a water supplier with a legal source of water:

(Name of water supplier)

_____ ii.) Copy of documents submitted to water hauler.

_____ iii.) Written approval from the water supplier stating the commercial marijuana use is permitted; stating the amount of water to be used for the cultivation facility (grow) can be supplied.

_____ iv.) If water hauler business is used, name of business

_____ v.) And letter from water supplier the water hauler business is approved to purchase water from that water supplier.

_____ vi.) Letter from the Division of Water Resources for water types for which haul water will be the sole source, including irrigation, commercial or both. This letter will also identify any wells that exist on the property and clarify any use limitations. Applicant must also comply with all cistern and meter installation and reporting as identified in the Division of Water Resource letter.

_____ c. Well water

_____ i.) Copy of existing well permit

_____ ii.) Letter from the Division of Water Resources stating the commercial marijuana use is allowed to be served water from the existing well permit; stating the amount of water to be used for the cultivation facility (grow) can be supplied by the well.

_____ iii.) Copy of documents submitted to Division of Water Resources.

_____ iv.) Written approval from the augmentation water supplier with the amount of water approved, if applicable.

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_____ 13. Letter from the Pueblo City-County Health Dept.

_____ 14. Letter from the sanitation district for centralized wastewater (sewer).

_____ 15. Letter from Pueblo County Public Works for access onto Pueblo County Roads.

_____ 16. Letter from Colorado Department of Transportation for access onto State highway.

_____ 17. Fire District _____

_____ 18. Signed Operating Agreement for LLC.

_____ 19. Floor Plans for Greenhouse & Processing Building.

_____ 20. Compliance with Subdivision (Title 16) under County Code

_____ 21. Application Fee (\$350)

_____ 22. Planning & Development Staff Initials

NOTE: Maps may be created through **Google** www.maps.pueblo.org
See the "Create a Map" supplement instructions.

Once you have made your appointment with Anita Garcia to submit your license, please schedule an appointment with Joan Armstrong 2-3 days prior to Mrs. Garcia's appointment for Planning and Development signature.

Contact Information:

- Pueblo Board of Water Works:
319 W. 4th St.
Matthew Trujillo Ph - 719-584-0277 Email: mtrujillo@pueblowater.org
- Pueblo County Health Department:
Environmental Health Division
101 W. 9th St.
Chad Wolgram Ph - 719-583-4339 Email: chad.wolgram@co.pueblo.co.us
(Cultivation)
Jeff Mara Ph - 719-583-4892 Email: jeff.mara@co.pueblo.co.us
(Cultivation)
Justin Gage Ph - 719-583-4337 Email: gagej@co.pueblo.co.us (MIPS)
- Colorado Division of Water Resources Division II
310 E. Abriendo Ave
Kathy Trask Ph - 719-542-3368 Ex: 2101 Email: kathy.trask@co.state.co.us
- Colorado Department of Transportation
905 Erie Ave
Andrew Lewis Ph - 719-562-5537 Email: Andrew.lewis@state.co.us
Valerie Sword Ph - 719-546-5407 Email: Valerie.sword@state.co.us
- Pueblo County Department of Public Works & Engineering
33601 United Ave (Pueblo Airport Industrial Park)
Pat Coffee Ph – 719-583-4723 Email: patcoffe@co.pueblo.co.us

Additional Information

Applicant shall provide the following information:

- _____ Square footage of retail area for MMJ Center
- _____ Total number of Employees for MMJ Center
- _____ Square footage of retail area for RMJ Store
- _____ Total number of Employees for RMJ Store
- _____ Square footage of office area for MMJ Center, if applicable
- _____ Square footage of office area for RMJ Store, if applicable
- _____ Total number of main shift employees for MMJ MIPS
- _____ Total number of main shift employees for RMJ MIPS
- _____ Total number of main shift employees for MMJ Cultivation Operation
- _____ Total number of main shift employees for RMJ Cultivation Facility
- _____ Square footage of office area for RMJ Testing Facility, if applicable
- _____ Total number of main shift employees for RMJ Testing Facility
- _____ Number of Shifts
- _____ Total number of employees per Shift

Zoning Compliance Review Marijuana normally requires 10 to 14 Working days for staff to complete the review process.

Additional Applications that MAY Be Required:

- A **complete** Off-Street Parking Plan Application with appropriate application fee
- A **complete** Sign Plan Application with appropriate application fee
- A **complete** Outdoor Lighting Plan Application with appropriate application fee

Planning & Development (P&D) staff shall make the determination if these additional application submittals are required.

Prior to zoning authorization approval for a building permit, remodel, or change of occupancy from the Pueblo Regional Building Department, the parking plan, and outdoor lighting (if applicable) shall have already been approved by (P&D) staff.

**MEDICAL AND/OR RETAIL MARIJUANA BUSINESS
ZONE DISTRICTS, LIST OF BUSINESSES AND USES**

I, _____ (print name) as Business Owner, have provided the following information relative to zone districts, established businesses, and uses on the same property **AND** within 250 feet of the medical and/or retail marijuana business named _____, located at _____, Assessor's Tax Parcel Number _____ in the _____ Zone District. The attached map and list identifies the zone districts, locations and names of those businesses **AND** uses (identified by numbers and/or letters associated with each business and use).

Type of Business (Refer to Section 17.04.040 Definitions and Sections 17.120.190 through 17.120.250, inclusive (check all that apply):

- _____ Medical Marijuana Center
- _____ Medical Marijuana-Infused Products Manufacturer (MIPS)
- _____ Medical Marijuana Contiguous Optional Premise Cultivation Operation
Check what applies: _____ Indoor _____ Outdoor
- _____ Medical Marijuana Non-Contiguous Optional Premise Cultivation Operation
Check what applies: _____ Indoor _____ Outdoor
- _____ Retail Marijuana Store
- _____ Retail Marijuana-Infused Products Manufacturer (MIPS)
- _____ Retail Marijuana Contiguous Cultivation Facility
Check what applies: _____ Indoor _____ Outdoor
- _____ Retail Marijuana Non-Contiguous Cultivation Facility
Check what applies: _____ Indoor _____ Outdoor
- _____ Retail Marijuana Testing Facility

Non-Contiguous means the marijuana cultivation is not on the same property or in the same building with a Marijuana Center/Store or Marijuana-Infused Products Manufacturer.

Contiguous means the marijuana cultivation is on the same property or in the same building with a Marijuana Center/Store or Marijuana-Infused Products Manufacturer.

No Medical Marijuana Center or Retail Marijuana Store shall be located within 1,000 feet from any other existing Licensed Medical Marijuana Center or Retail Marijuana Store – see Section 17.120.200 E. & F. in the Pueblo County Code.

I attest that the information I have provided is true and correct to the best of my knowledge.

Business Owner's Signature, Date

NOTICE: All information, including emails, submitted to Pueblo County Department of Planning and Development is considered public record and is therefore available for public review.

Businesses AND Uses in the Same Building or in Another Building on the Same Property, (if applicable), as shown on map.

1.

Name of Business

Address of Business (w/Suite #)

Use of Business

City, State, Zip Code

2.

Name of Business

Address of Business (w/Suite #)

Use of Business

City, State, Zip Code

3.

Name of Business

Address of Business (w/Suite #)

Use of Business

City, State, Zip Code

4.

Name of Business

Address of Business (w/Suite #)

Use of Business

City, State, Zip Code

5.

Name of Business

Address of Business (w/Suite #)

Use of Business

City, State, Zip Code

Businesses Within 250 Feet of the MMJ/RMJ Business (measured from wall) as shown on map.

A.

Name of Business

Address of Business (w/Suite #)

Use of Business

City, State, Zip Code

B.

Name of Business

Address of Business (w/Suite #)

Use of Business

City, State, Zip Code

C.

Name of Business

Address of Business (w/Suite #)

Use of Business

City, State, Zip Code

D.

Name of Business

Address of Business (w/Suite #)

Use of Business

City, State, Zip Code

E.

Name of Business

Address of Business (w/Suite #)

Use of Business

City, State, Zip Code

For MMJ Center/RMJ Store: existing residences/mobile homes within 250 feet measured from the wall of the MMJ/RMJ Business to the wall of the existing residence/mobile home as shown on map.

A.

Name/Address of Residence/Mobile Home

Name/Address of Property Owner of Residence/Mobile Home, if different

B.

Name/Address of Residence/Mobile Home

Name/Address of Property Owner of Residence/Mobile Home, if different

C.

Name/Address of Residence/Mobile Home

Name/Address of Property Owner of Residence/Mobile Home, if different

D.

Name/Address of Residence/Mobile Home

Name/Address of Property Owner of Residence/Mobile Home, if different

E.

Name/Address of Residence/Mobile Home

Name/Address of Property Owner of Residence/Mobile Home, if different

For any Medical Marijuana Center or any Retail Marijuana Store located within 250 feet of any existing residence/mobile home, the Center or Store shall be a use by review in the B-4 Zone District therefore required to apply for a Special Use Permit with the Department of Planning and Development to be heard by the Pueblo County Planning Commission.

For any Medical Marijuana Center or any Retail Marijuana Store located 250 feet or greater of from any existing residence/mobile home, the Center or Store shall be a use by right in the B-4 Zone District.

CREATE A MAP FROM *Pueblo county Assessor page.*

Go to Pueblo County Government main webpage
 On left hand side go to departments
 Click on departments, and go to the Assessor's page
 Under the Assessor's click on property search
 Check the I Agree to the above Statement box and press submit in middle of page.

Search name or parcel # - enter parcel #
 -Click search for property
 -Click view GIS Map

Legend on top of map – click icon that looks like 2 cds - “Turn buffer selection tool on/off”
 Change Buffer Parameters to Feet
 Put 250 for distance
 Click Buffer Selection
 Click Buffer icon to get rid of Buffer Selection table

You can also use the layer's drop down icon, to identify the zone districts around your property.

Zoom in with +; Zoom out with – To get full view of the buffer map.

Click Print

Print options, Click Print
 Map Only

Maps comes up – put cursor on lower right of map and print icon will appear – click print icon to print this map for application package.

Save this map in PDF to electronically submit PDF by email.

On Map screen – on bottom is list of Parcel Numbers, Owners, etc.

Upper left of that information page is icon (box with down arrow) to “Export CSV of selected features” – click

All the information for the parcels selected will be shown as downloaded to the lower left of the map screen

Double click on the download tab and the information for all the parcels will come up – delete the unnecessary columns such as B, I, J, N, O, P, Q, S; keep A, C, D, E, F, G, H, K, L, M, R and expand these columns to show all the information. Print this information for application package and save as PDF to electronically submit PDF by email

Identify the uses of the parcels within 250 feet measured from wall of MJ business to wall of structure. You can use another copy of the map to number the uses for each of Pages 5, 6, and 7 - required information; identify which map goes with which Page. Print these maps for application package. Save maps, if created, in PDF to electronically submit PDF by email.

NOTICE: All information, including emails, submitted to Pueblo County Department of Planning and Development is considered public record and is therefore available for public review.

**APPENDIX C:
Zoning Compliance
Review Hemp Form**

FEMALE HEMP

MALE/HERMAPHRODITE HEMP

Hemp Establishment* is only permitted:

in the A-1/A-2, Agricultural Zone Districts in a greenhouse, building, or outside farming as a use-by-right;

in the I-1/I-2 Industrial Zone Districts in a greenhouse or building as a use-by-right.

Male hemp plants and hermaphrodite hemp plants shall only be grown in an enclosed building, which does not include a greenhouse, with a proper filtration system and clothing/footwear preventative measures (i.e., clean room mat) to prevent escape of pollen/seed/or other product that might be detrimental to a hemp and/or marijuana crop.

***Definition contained in this Application Document**

PLEASE READ NOTE AND SIGN BELOW:

THE SUBMITTED APPLICATION PACKAGE REQUIRES SPECIFIC REPORTS/INFORMATION WHICH MAY NOT BE ADEQUATE AS DETERMINED THROUGH THE REVIEW PROCESS. ADDITIONAL INFORMATION MAY BE REQUIRED. ALSO, THE ACCEPTANCE OF THE APPLICATION PACKAGE DOES NOT MEAN THE SPECIFIC INFORMATION HAS BEEN APPROVED AND IN FINAL FORM. REVISIONS TO THE MAP AND/OR REPORTS MAY BE REQUIRED. YOUR SIGNATURE BELOW INDICATES ACCEPTANCE OF THESE CONDITIONS.

Date: _____ Type of Application: _____

Zoning Compliance Review Hemp No.

Business Owner's Signature

NOTICE: All information, including emails, submitted to Pueblo County Department of Planning and Development is considered public record and is therefore available for public review.

Assessor's Tax Parcel No. _____

- 1. Please list the name, address, and telephone number(s) of the following (some may not be applicable): (Print legibly)**

Business Owner(s) _____
Address/Zip: _____
Telephone Number(s): _____
Email Address: _____

Property Owner(s): _____
Address/Zip: _____
Telephone Number(s): _____
Email Address: _____

Signed letter/lease agreement/purchase agreement from owner allowing the Hemp Establishment

- 2. Zone district _____
- 3. Legal Description of the property _____
(If lengthy, please attached as a separate page)
- 4. Address of the property _____
- 5. Please list any previous applications (e.g., map amendments, zoning variances, special use permits, subdivision variances) in connection with this property:

APPLICATION CHECKLIST

The Following Information Must Be Included With The ZCRH Application:

One (1) Map May Contain All The Following Information (1-5)

Maps are to be 11"x17" or smaller with no PDF required.

Larger than 11"x17" requires a PDF to be submitted.

Google Aerial May Be Used For the Map With The 5 Mile Buffer Shown

- _____ 1. Commercial Industrial Hemp Permit or Research and Development Permit from the State of Colorado Department of Agriculture.
- _____ 2. Proof of processing either on-site or the name of the processing company
 _____ On-site processing; drawn on map (item 3.)
 _____ Letter from Processing company stating it will process for Hemp Establishment
- _____ 3. Map drawn to scale (north arrow and scale) identifying location of Hemp Establishment and location of processing building, if applicable.
- _____ 4. Map drawn to scale (north arrow and scale) identifying location of Hemp Establishment with a 5 mile perimeter buffer shown and location of any Marijuana Establishment as measured from property lines of the Hemp Establishment to the property lines of the Marijuana Establishment using a direct line.
 No Hemp Establishment shall be located within 5 miles of any Marijuana Establishment with the following EXEMPTIONS:
 _____ Hemp Establishment that contains only hemp plants that are confirmed female and documentation of female only hemp plants
 _____ Hemp Establishment who submits waiver of the distance requirement that is signed by all Marijuana Establishments within the 5 mile buffer
 _____ A location where the Department of Planning and Development previously approved a ZCRH and a permitted Hemp Establishment has existed in continuous operation since the time of original permitting.
- _____ 5. Documentation of Female Hemp plant designation.
- _____ 6. Proof of property ownership by recorded deed.

_____ 7. Signed letter from owner of the property allowing the Hemp Establishment.

_____ 8. Signed lease agreement/purchase agreement, with Hemp Establishment named in the lease agreement/proposed property owner in the purchase agreement.

_____ 9. Signed Operating Agreement for LLC.

_____ 10. Acknowledgement the Hemp Establishment will submit Quarterly and Year End harvest data to the Pueblo County Department of Planning and Development.

_____ 11. Proof of water source:

_____ a. Municipal supply

- Written approval from municipal supplier stating the hemp use is permitted and water will be supplied for the hemp use; stating the amount of water to be used for the cultivation facility (grow) can be supplied.

_____ b. Hauled water

_____ Identify a water supplier with a legal source of water:

(Name of water supplier)

_____ Copy of documents submitted to water hauler.

_____ Written approval from the water supplier stating the hemp use is permitted; stating the amount of water to be used for the hemp use can be supplied.

_____ If water hauler business is used, name of business

_____ and letter from water supplier the water hauler business is approved to purchase water from that water supplier.

_____ Letter from the Division of Water Resources for water types for which haul water will be the sole source, including irrigation, commercial or both. This letter will also identify any wells that exist on the property and clarify any use limitations. Applicant must also comply with all cistern and meter installation and reporting as identified in the Division of Water Resource letter.

_____ c. Well water

_____ Copy of existing well permit

_____ Letter from the Division of Water Resources stating the hemp use is allowed to be served water from the existing well permit; stating the amount of water to be used for the hemp use can be supplied by the well.

_____ Copy of documents submitted to Division of Water Resources.

_____ Written approval from the augmentation water supplier with the amount of water approved, if applicable.

_____ 12. Letter from the Pueblo City-County Health Dept., if required – processing facility with bathroom(s).

_____ 13. Letter from the sanitation district for centralized wastewater (sewer), if required – processing facility with bathroom(s).

_____ 14. Fire District _____

_____ 15. Planning & Development Staff Initials

_____ 16. Application Fee (\$350)

NOTE: Maps may be created through Google www.maps.pueblo.org See the “Create a Map” supplement instructions.

Pueblo County Code - Title 17 - Chapter 17.04 GENERAL PROVISIONS AND DEFINITIONS B. Specific. For the purpose of this resolution certain words and terms are defined as follows:

Industrial Hemp means a plant of the genus Cannabis and any part of the plant, whether growing or not, containing a delta-9 tetrahydrocannabinol (THC) concentration of no more than three-tenths of one percent (0.3%) on a dry weight basis.

Hemp Establishment means

- 1) *any Establishment which has been issued a Research and Development (R & D) Industrial Hemp Registration or Commercial Industrial Hemp Registration by the Colorado Department of Agriculture, pursuant to the Industrial Hemp Regulatory Program Act, Title 35, Article 61, C.R.S., including outdoor farming, greenhouse farming and indoor (building; excludes residential structures) farming; greenhouse and building shall be permitted by Pueblo Regional Building Department and obtain zoning authorization from Pueblo County Department of Planning and Development;*
- 2) *any Establishment which processes Industrial Hemp as defined herein as Hemp Processing.*

Hemp Establishments shall follow and abide by rules and regulations issued by Department of Agriculture in accordance with the Industrial Hemp Regulatory Program Act and shall also follow and abide by Pueblo County’s regulations regarding Industrial Hemp.

Hemp Processing means the refinement of Industrial Hemp to create products derived from hemp. Hemp Processing shall only be conducted in a greenhouse and/or building, excluding residential structures, that are permitted by Pueblo Regional Building Department and Pueblo City-County Health Department and have obtained zoning authorization from Pueblo County Department of Planning and Development.

Delta-9 tetrahydrocannabinols has the same meaning as “tetrahydrocannabinols” as set forth in section 27-80-203(24), C.R.S.

Additional Information

Applicant shall provide the following information:

_____ Square footage of cultivation greenhouse

_____ Square footage of cultivation building

_____ Square footage of processing building

_____ Square footage of office area

_____ Number of main shift employees

_____ Number of Shifts

_____ Number of employees per shift

Zoning Compliance Review Hemp normally requires 10 to 14 Working days for staff to complete the review process.

Additional Information

Any transporting of Industrial Hemp shall be accompanied by a copy of the Department of Agriculture Hemp Permit. Pueblo County Department of Planning and Development has the right to inspect the Hemp Establishment and request paperwork from the Department of Agriculture. Other Governmental Agencies whether State or Local, such as Colorado Division of Water Resources, Pueblo Regional Building Department, City-County Health Department, have the right to inspect the Hemp Establishment for compliance with their respective regulations.

Construction of any building on the property may require a building permit from the Pueblo Regional Building Department.

Onsite Wastewater Treatment System (OWTS) will require approval from the Pueblo City-County Health Department.

Prior to zoning authorization approval for a building permit, remodel, or change of occupancy from the Pueblo Regional Building Department the ZCRH shall have already been approved by the Department of Planning and Development.

No Hemp Establishment shall be allowed as a Home Occupation use.

No Hemp Establishment shall be located within 1,000 feet of any existing public or private elementary, middle, junior high or high school as measured from property line of the school to the property line of the Hemp Establishment using a direct line.

No Hemp Establishment shall be located in:

1. a building containing residential units,
2. a movable or mobile structure.

**Additional Applications That MAY Be Required If Property Is
In The I-1 or I-2 Zone District:**

- A **complete** Off-Street Parking Plan Application with appropriate application fee
- A **complete** Sign Plan Application with appropriate application fee
- A **complete** Outdoor Lighting Plan Application with appropriate application fee

Planning & Development (P&D) staff shall make the determination if these additional application submittals are required.

Prior to zoning authorization approval for a building permit, remodel, or change of occupancy from the Pueblo Regional Building Department, the parking plan, and outdoor lighting (if applicable) shall have already been approved by (P&D) staff.

HEMP ESTABLISHMENT ACKNOWLEDGEMENT

I, _____ (print name) as Business Owner, have provided the following information relative to zone district and uses on the same property **AND** established Marijuana Establishments within a 5 mile buffer of the Hemp Establishment named _____, located at (address) _____, Assessor's Tax Parcel Number _____ in the _____ Zone District.

Identify Use(s) on said property:

- _____ A-1/A-2 Cultivation Outside (female Hemp plants (confirmed & documented) only)
- _____ A-1/A-2 Cultivation Greenhouse (female Hemp plants (confirmed & documented) only)
- _____ A-1/A-2 Cultivation Building (female Hemp plants (confirmed & documented) only)
- _____ A-1/A-2 Cultivation Enclosed Building with a proper filtration system and clothing/footwear preventative measures (i.e., clean room mate) to prevent escape of pollen/seed/or other product that might be detrimental to a hemp and/or marijuana crop. (male/hermaphrodite Hemp plants) – 5 mile buffer from Marijuana Establishment
- _____ I-1/I-2 Cultivation Greenhouse (female Hemp plants (confirmed & documented) only)
- _____ I-1/I-2 Cultivation Building (female Hemp plants (confirmed & documented))
- _____ I-1/I-2 Cultivation Enclosed Building with a proper filtration system and clothing/footwear preventative measures (i.e., clean room mate) to prevent escape of pollen/seed/or other product that might be detrimental to a hemp and/or marijuana crop. (male/hermaphrodite Hemp plants) – 5 mile buffer from Marijuana Establishment
- _____ Female Hemp Plant Cultivation – confirmed & documented female hemp plant
- _____ Male/Hermaphrodite Plant Cultivation
- _____ Hemp Processing

The attached map and list identifies the zone districts, locations and names of those Marijuana Establishments (identified by letters associated with each Marijuana Establishment) within a 5 mile buffer for any Hemp Establishment whether Female Hemp plants or Male/Hermaphrodite Hemp plants

I attest that the information I have provided is true and correct to the best of my knowledge.

Business Owner's Signature, Date

NOTICE: All information, including emails, submitted to Pueblo County Department of Planning and Development is considered public record and is therefore available for public review.

Marijuana Establishment Within 5 Miles of the Hemp Establishment (measured from property line to property line using a direct line) as shown on map for any Hemp Establishment whether Female Hemp plants or Male/Hermaphrodite Hemp plants.

A.

Name of Marijuana Establishment, if known

B.

Name of Marijuana Establishment, if known

C.

Name of Marijuana Establishment, if known

D.

Name of Marijuana Establishment, if known

E.

Name of Marijuana Establishment, if known

CREATE A MAP FROM *Pueblo county Assessor page*.

Go to pueblo county Government main webpage

On left hand side go to departments

Click on departments, and go to the Assessor's page

Under the Assessor's click on property search

Check the "I Agree" to the above Statement box and press submit in middle of page.

Search name or parcel # - enter parcel #

-Click search for property

-Click view GIS Map

Legend on top of map – click icon that looks like 2 cds - "Turn buffer selection tool on/off"

Change Buffer Parameters to Miles

Put 5 for distance

Click Buffer Selection

Click Buffer icon to get rid of Buffer Selection table

Zoom in with +; Zoom out with – To get full view of the buffer map.

Click Print

Print options, Click Print

Map Only

Maps comes up – put cursor on lower right of map and print icon will appear – click print icon to print this map for application package.

Save this map in PDF to electronically submit PDF by email.

Identify the Marijuana Establishment by letters on the parcels within the 5 mile buffer measured from property line of the Hemp Establishment to the property line of the Marijuana Establishment for Page 7 - required information. Print these maps for application package. Save maps, if created, in PDF to electronically submit PDF by email.

NOTICE: All information, including emails, submitted to Pueblo County Department of Planning and Development is considered public record and is therefore available for public review.

**APPENDIX D:
Pueblo County
Marijuana License
Application**

APPLICATION FOR A PUEBLO COUNTY MARIJUANA ESTABLISHMENT LICENSE†

This application is in addition to those items identified in the “Marijuana License Submittal Requirements” which must accompany this application and are incorporated herein.

OPERATING FEES

MEDICAL MARIJUANA CENTER: \$5000.00

MEDICAL MARIJUANA OPTIONAL PREMISE CULTIVATION FACILITY: \$5000.00

MEDICAL MARIJUANA INFUSED PRODUCT MANUFACTURING FACILITY: \$5000.00

RETAIL MARIJUANA STORE: \$6000.00

RETAIL MARIJUANA CULTIVATION FACILITY: \$5000.00 PLUS:

- I. \$.50 PER SQUARE FOOT OF THE PORTION OF THE LICENSED PREMISE IN WHICH PLANTS ARE LOCATED FOR INDOOR CULTIVATION FACILITIES, INCLUDING GREENHOUSES*;
- II. \$.25 PER SQUARE FOOT OF THE PORTION OF THE LICENSED PREMISE IN WHICH PLANTS ARE LOCATED FOR OUTDOOR CULTIVATION FACILITIES*.

RETAIL MARIJUANA INFUSED PRODUCT MANUFACTURING FACILITY: \$6000.00

RETAIL MARIJUANA TESTING FACILITY: \$1500.00

STORAGE WAREHOUSE: \$1500.00

*SQUARE FOOTAGE FEES ARE CAPPED AT \$15,000

Fees must be submitted with the application. Fees pursuant to Title 17 of the Pueblo County Code for zoning compliance review are collected by Planning & Development. No credit cards accepted. Make checks or money orders payable to Pueblo County.

TYPE OF BUSINESS (Refer to Section 5.12.060 of the Pueblo County Code): Please check all that apply:

- _____ **MEDICAL MARIJUANA CENTER**
- _____ **MEDICAL MARIJUANA OPTIONAL PREMISES CULTIVATION**
- _____ **MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURING**
- _____ **RETAIL MARIJUANA STORE**
- _____ **RETAIL MARIJUANA CULTIVATION FACILITY**
- _____ **RETAIL MARIJUANA-INFUSED PRODUCTS MANUFACTURING FACILITY**
- _____ **RETAIL MARIJUANA TESTING FACILITY**
- _____ **STORAGE WAREHOUSE**

† Approval by the Pueblo County Planning & Development is required prior to submitting this application to the Department of Planning and Development Licensing Coordinator – see page 12

PART 1 – BUSINESS INFORMATION

Legal Business Name:		Trade Name/DBA:	
Base Location (No PO Boxes):			
City:	County:	State:	Zip:
Mailing Address _____ Check if same as Base Location			
City:	County:	State:	Zip:
Date Formed:		FEIN:	

PART 2 – OWNERSHIP/MEMBER INFORMATION

If applicant is a corporation, LLC, partnership, or other entity, list all owners, officers, directors, general partners, managing members, position held, and percentage owned. **Additional sheets may be attached as needed.**

Business Owner Name:			
Owner Address (No PO Boxes):			
City:	County:	State:	Zip:
Phone:		Email Address:	
DOB/Date Formed:		SSN/FEIN:	
Percentage Own:		Other Roles:	
		_____ Officer - _____	
		_____ Other - _____	

1. Do you own or have an interest in any other marijuana establishment(s), excluding the one for which you are currently applying? If yes, on a separate sheet of paper, please list company names (including this one), jurisdictions, and both local and state license numbers.

If no, proceed to question 2.

2. Have you ever applied for a license for a marijuana establishment license in Pueblo County, excluding this one, or any other jurisdiction? If yes, answer question A. If no, proceed to question 3.

A. Have you ever had a marijuana establishment license denied or revoked?

3. Do you own any other properties that are being or have previously been leased to another marijuana establishment? If yes, answer questions A and B. If no, proceed to question 4.

A. On a separate sheet of paper, please list the dates, names of companies and owners.

B. Did you have any interest in the companies other than a landlord/tenant relationship? If yes, please specify on a separate sheet of paper.

4. Have you ever been subject to any investigation, surrendered a license, or had any disciplinary action taken against you in regards to any other marijuana establishment regardless of ownership of interest? If yes, specify on a separate sheet of paper.

For each person identified above, please include a narrative of that person's criminal history (e.g., nature of charge, state and disposition), if any, and the disposition of any criminal charges against such person. The applicant shall include a statement of how the information so disclosed has been obtained. Criminal history should include the applicant and each person's statement concerning convictions for felonies, misdemeanors, and alcohol or drug related traffic convictions.

INDIVIDUAL OFFICERS, DIRECTORS, PARTNERS AND MEMBERS INFORMATION (Additional sheets may be attached as needed): 128

Owner/Officer Name and Title:			
Owner Address (No PO Boxes):			
City:	County:	State:	Zip:
Phone:		Email Address:	
DOB:		SSN:	
Percentage Own:		Other Roles:	
		_____ Officer - _____	
		_____ Other - _____	

1. Do you own or have an interest in any other marijuana establishment(s), excluding the one for which you are currently applying? If yes, on a separate sheet of paper, please list company names (including this one), jurisdictions, and both local and state license numbers.

If no, proceed to question 2.

2. Have you ever applied for a license for a marijuana establishment license in Pueblo County, excluding this one, or any other jurisdiction? If yes, answer question A. If no, proceed to question 3.

A. Have you ever had a marijuana establishment license denied or revoked?

3. Do you own any other properties that are being or have previously been leased to another marijuana establishment? If yes, answer questions A and B. If no, proceed to question 4.

A. On a separate sheet of paper, please list the dates, names of companies and owners.
 B. Did you have any interest in the companies other than a landlord/tenant relationship? If yes, please specify on a separate sheet of paper.

4. Have you ever been subject to any investigation, surrendered a license, or had any disciplinary action taken against you in regards to any other marijuana establishment regardless of ownership of interest? If yes, specify on a separate sheet of paper.

For each person identified above, please include a narrative of that person’s criminal history (e.g., nature of charge, sate and disposition), if any, and the resolution of any criminal charges against such person. The applicant shall include a statement of how the information so disclosed has been obtained. Criminal history should include the applicant and each person’s statement concerning convictions for felonies, misdemeanors, and alcohol or drug related traffic convictions.

PART 3 – OTHER INTERESTS

Who, besides those listed above (including persons, firms, partnerships, corporation, limited liability companies, trusts), will loan or give money, inventory, furniture or equipment to or for use in this business; or who will receive money or profits from this business. **Additional sheets may be attached as needed.**

Name:			
Address (No PO Boxes):			
City:	County:	State:	Zip:
Phone:		Email Address:	
DOB/Date formed:		SSN/FEIN:	
Interest/Percentage owned:		Other Roles: _____ Officer - _____ _____ Other - _____	

1. Do you own or have an interest in any other marijuana establishment(s), excluding the one for which you are currently applying? If yes, on a separate sheet of paper, please list company names (including this one), jurisdictions, and both local and state license numbers.

If no, proceed to question 2.

2. Have you ever applied for a license for a marijuana establishment license in Pueblo County, excluding this one, or any other jurisdiction? If yes, answer question A. If no, proceed to question 3.

A. Have you ever had a marijuana establishment license denied or revoked?

3. Do you own any other properties that are being or have previously been leased to another marijuana establishment? If yes, answer questions A and B. If no, proceed to question 4.

A. On a separate sheet of paper, please list the dates, names of companies and owners.

B. Did you have any interest in the companies other than a landlord/tenant relationship? If yes, please specify on a separate sheet of paper.

4. Have you ever been subject to any investigation, surrendered a license, or had any disciplinary action taken against you in regards to any other marijuana establishment regardless of ownership of interest? If yes, specify on a separate sheet of paper.

For each person identified above, please include a narrative of that person's criminal history (e.g., nature of charge, sate and disposition), if any, and the resolution of any criminal charges against such person. The applicant shall include a statement of how the information so disclosed has been obtained. Criminal history should include the applicant and each person's statement concerning convictions for felonies, misdemeanors, and alcohol or drug related traffic convictions.

PART 4 – PREMISES/PROPERTY LOCATION INFORMATION

Proposed location of the license(s) you are applying for. Attach separate sheet as needed for each proposed premises.

Property Owner Name: (Name that appears on the recorded deed for the property.)			
Property Owner Address:			
City:	County:	State:	Zip:
Business Phone:		Cell Phone:	
Email Address:			

MEDICAL (Check all that apply.)		
<input type="checkbox"/> Center	<input type="checkbox"/> Optional Premises Cultivation	<input type="checkbox"/> Infused Products Manufacturing
Location: (Include zip code.)		
Manager Name:	Fire Jurisdiction:	
If applying for an Optional Premises Cultivation (OPC) only, on a separate sheet of paper, please include information for the Medical Marijuana Center and/or Infused Products Manufacturer that the OPC will supply. (State license number, address, company name, owners, etc.)		

RETAIL (Check all that apply.)			
<input type="checkbox"/> Store	<input type="checkbox"/> Cultivation	<input type="checkbox"/> Infused Product Manufacturing	<input type="checkbox"/> Testing Facility
Location: (Include zip code.)			
Manager Name:	Fire Jurisdiction:		

<input type="checkbox"/> Storage Warehouse	
Location: (Include zip code.)	
Manager Name:	Fire Jurisdiction:

PART 5 – PLANT/PRODUCT INFORMATION

FOR CULTIVATIONS ONLY	Indoor (includes greenhouses)	Outdoors
RETAIL: How many square feet?		
MEDICAL: (For dual operations only) How many square feet?		

Expected Water Source:
Expected Level of Water Use: (gal/day)
Expected Wastewater Discharge: (gal/day)
If you have a septic system, are you registered with the EPA Class V underground injection control?
Anything else that you would like to explain about your water usage?

FOR STORAGE WAREHOUSE ONLY:

Please refer to the Colorado Code of Regulations, Subpart A: Medical Marijuana – Rule M802 and Subpart B: Retail Marijuana – Rule R802

Please identify the corresponding marijuana establishment that the storage warehouse would be associated with:
Is the proposed storage warehouse location clearly defined in the diagram of the premises submitted with this application and its size?

CONTRACOR/SUPPLIER INFORMATION:

List any supplier of marijuana in any form if the contractor/supplier differs from the applicant.

NAME: _____ PHONE: _____

BUSINESS ADDRESS: _____

PLEASE BE ADVISED: § 5.12.070 of Pueblo County's Marijuana Licensing Regulations refer to a section of State law and further contain local standards which prohibit the consideration of a licensee. Please consider these provisions carefully prior to submission of your application to the Department of Planning and Development Licensing Coordinator.

TERMS AND CONDITIONS

1. Pueblo County will accept a completed application for a marijuana establishment license; however Applicant acknowledges and agrees that it is acceptance of the application only and shall not, in any manner, constitute an approval of the establishment or of any license for the establishment now or in the future, and Applicant further agrees not to present the acceptance of this application as the basis for any inference of further approval by Pueblo County of a complete license application or any approval of the location of the marijuana establishment as being in compliance with Pueblo County land use regulations.
2. Applicant agrees to diligently pursue this application to its completion and further understands that a full license from both the State of Colorado and Pueblo County will be absolutely necessary to open up its marijuana establishment.
3. Applicant agrees not to set up this application as a defense or justification in any criminal proceeding instituted by the appropriate authorities, State, local, or federal, against the applicant.
4. Prior to, or after issuance of a license, if there are any changes to the information supplied in this application, Applicant agrees to provide the same in a timely manner, but in any event, no more than ten (10) days after such change, to the Local Licensing Authority.
5. Applicant understands and acknowledges that approval of a Marijuana Establishment License, if granted, shall in no way permit any activity contrary to the Pueblo County Code or any activity that is in violation of any applicable laws.
6. Applicant understands that the applicant and the employees of the Marijuana Establishment may be subject to prosecution under federal controlled substance laws.
7. Applicant understands that Pueblo County accepts no legal liability in connection with the approval and subsequent operation of the Marijuana Establishment.
8. Applicant releases Pueblo County, its officers, elected officials, employees, attorneys, and agents from any liability for injuries, damages, and liabilities of any kind that may result from any search, seizure, arrest, forfeiture, or prosecution of Establishment owners, lessors, landlords, operators, employees, clients, or customers and their property, for a violation of State or Federal laws, rules or regulations.
9. Applicant understands that cash, personal property, vehicles, and fixtures located on the premises, or located off premises, but used in connection with the premises or the marijuana establishment operation, and the real property on which the premises are located, may be subject to seizure and forfeiture under federal controlled substances and forfeiture laws, which still apply to marijuana.

CORPORATE OFFICERS SIGN HERE

CORPORATE OFFICERS SIGN HERE

Signature

Signature

Print Name and Title

Print Name and Title

Date

Date

1st signature:

STATE OF COLORADO)

) ss

COUNTY OF PUEBLO)

Subscribed and sworn to before me by _____ this _____ day of _____, 20____.

Witness my hand and official seal:

Notary Public

My commission expires: _____

2nd signature:

STATE OF COLORADO)

) ss

COUNTY OF PUEBLO)

Subscribed and sworn to before me by _____ this _____ day of _____, 20____.

Witness my hand and official seal:

Notary Public

My commission expires: _____

TO BE FILLED OUT BY PLANNING & DEVELOPMENT STAFF MEMBER

TO THE PUEBLO COUNTY PLANNING AND DEVELOPMENT DEPARTMENT: Based upon the location for the premises located at _____ for ZCRM # _____ upon which the licensed activity(ies) are to be conducted, please determine if the proposed use will be in compliance with the provisions of the Pueblo County zoning resolution/regulations.

- Establishment complies with Pueblo County Land Use regulations, for the following uses:
 - Medical Marijuana Center
 - Medical Marijuana Optional Premises Cultivation
 - Medical Marijuana Infused Products Manufacturer
 - Retail Marijuana Store
 - Retail Marijuana Cultivation
 - Retail Marijuana Infused Products Manufacturer
 - Testing Facility
 - Storage Warehouse

- Establishment **does not** comply with Pueblo County Land Use regulations. (Please provide a brief explanation of why the location does not comport with the zoning resolution/regulations):

 Signature Date

Print name: _____ Title: _____

APPROVAL OF PUEBLO COUNTY LIQUOR AND MARIJUANA LICENSING BOARD

The foregoing application, the premises, and business to be conducted have been examined. **THIS APPLICATION IS APPROVED.**

Print Name of Authorized Member		Date filed with Local Authority	
Signature	Title	Date	

**APPENDIX E:
Pueblo County
Marijuana License
Fees**

Pueblo County Marijuana Fee Schedule*†

Administrative Operating Fees	
Change of Location	\$250.00
Modification of Premises	\$50.00
Change Trade Name	\$50.00
Change of Ownership	\$250.00
Name background check per person	\$25.00
Fingerprint background check per person**	\$39.50

	New License	Renewal License
Medical Center	\$5,000.00	\$2,500.00
Medical OPC Facility	\$5,000.00	\$2,500.00
Medical Marijuana Infused Product Manufacturing Facility	\$5,000.00	\$2,500.00
Retail Store	\$6,000.00	\$6,000.00
Retail Cultivation Facility	\$5,000.00	\$2,500.00
Indoor Cultivation	\$.50/sq. ft.***	\$0.50/sq. ft.***
Outdoor Cultivation	\$0.25/sq. ft.***	\$0.25/sq. ft.***
Retail Marijuana Infused Product Manufacturing	\$6,000.00	\$6,000.00
Retail Testing Facility	\$1,500.00	\$1,500.00
Storage Warehouse	\$1,500.00	\$1,500.00
Late Renewal Fee		\$500.00

*Pursuant to 5.12.130, Fees will be reviewed annually. Please check with the Local Licensing Authority for current pricing.

†When paying by check, please be aware, if your check is returned two (2) times, for any reason, that you will be required to pay by cash, money order, certified check, or cashier's check. NO EXCEPTIONS!

**Make business check, money order, cashier's check, or certified check payable to Colorado Bureau of Investigation. NO PERSONAL CHECKS

***Square footage fees have been capped at \$15,000

**APPENDIX F:
Pueblo County Code
Title 5—Marijuana
Licensing**

Pueblo County Code - Title 5 - Business Licenses and Regulations

Chapter 5.12 MARIJUANA LICENSING

5.12.010 Establishment.

The provisions of these regulations have been adopted and established pursuant to an official resolution of the Pueblo County Board of County Commissioners No. 11-139, dated June 21, 2011. Thereafter these Regulations have been amended and restated in their entirety by official resolutions of the Pueblo County Board of County Commissioners, No. 11-240, dated November 15, 2011, and No. 13-216, dated October 9, 2013. (Res. 11-139, 11-240, 13-216, 14-03, 14-59, 14-196 and 15-038)

5.12.020 Authority and Jurisdiction.

The provisions of this Chapter 5.12 of the Pueblo County Code shall be known and may be cited as the Pueblo County Marijuana Licensing Regulations. The Board of County Commissioners hereby declares that this Chapter shall be deemed an exercise of the police powers of the Board of County Commissioners of the County of Pueblo, Colorado, for the furtherance and protection of the health, safety and welfare of the citizens of unincorporated Pueblo County. This Chapter is further adopted and established pursuant to the specific authority granted to Pueblo County in the provisions of the Colorado Marijuana Code, Article 43.3 of Title 12, C.R.S., Section 16 of Article XVIII of the Colorado Constitution, and the Colorado Retail Marijuana Code, Article 43.4 of Title 12, C.R.S. The jurisdiction in which these regulations shall be applicable consists of the entire area of unincorporated Pueblo County. These regulations shall govern the cultivation, manufacture, distribution, testing, and sale of medical marijuana, retail marijuana, medical marijuana-infused products, and/or retail marijuana-infused products in unincorporated Pueblo County and shall further govern all persons who attempt to establish and/or who, in fact, establish a business or operation engaged in the cultivation, manufacture, sale, testing or distribution of medical or retail marijuana or medical or retail marijuana-infused products in unincorporated Pueblo County. (Res. 11-139, 11-240 and 13-216)

5.12.030 Local Licensing Authority.

- A. The Pueblo County Liquor and Marijuana Licensing Board shall serve as the licensing authority for medical marijuana and retail marijuana for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, testing and/or sale of medical marijuana, retail marijuana, medical marijuana-infused products, and/or retail marijuana-infused products in unincorporated Pueblo County and is hereby designated to act as the local licensing authority for the County within the meaning of the Colorado Medical Marijuana Code, Article 43.3 of Title 12, C.R.S., and the Colorado Retail Marijuana Code, Article 43.4 of Title 12, C.R.S.
- B. In addition, the Pueblo County Liquor and Marijuana Licensing Board shall have the power and authority to suspend, fine, restrict or revoke such licenses upon a violation of this Chapter, or any rules subsequently promulgated pursuant to this Chapter and/or upon a violation of the provisions of Colorado Medical Marijuana Code, Article 43.3 of Title 12, C.R.S., and the Colorado Retail Marijuana Code, Article 43.4 of Title 12, C.R.S.
- C. Nothing in this Chapter shall be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to a license issued pursuant to this Chapter. (Res. 11-139, 11-240, 13-216 and 15-038)

Section 5.12.040 Definitions.

Unless otherwise defined herein, the terms in this Chapter shall have the same meaning as set forth in Sections 14 and 16 of Article XVIII of the Colorado Constitution, Article 43.3 and Article 43.4 of Title 12, C.R.S. and any rules promulgated pursuant thereto. The following words and phrases, when used in this Chapter, shall have the meanings respectively assigned to them:

1. "Advertise, advertising or advertisement" means the act of drawing the public's attention to a Medical or Retail Marijuana Establishment's premise or name in order to promote the sale of marijuana or marijuana products.
2. "Colorado Marijuana Code" means both the Colorado Medical Marijuana Code and the Colorado Retail Marijuana Code as defined herein.
3. "Colorado Medical Marijuana Code" means Section 14 of Article XVIII of the Colorado Constitution and Article 43.3 of Title 12 of the Colorado Revised Statutes, as amended and any rules promulgated pursuant thereto.
4. "Colorado Retail Marijuana Code" means Section 16 of Article XVIII of the Colorado Constitution and Article 43.4 of Title 12 of the Colorado Revised Statutes, as amended and any rules promulgated pursuant thereto.
5. "Good Cause", for purposes of refusing or denying an initial license issuance, or for refusing or denying a license renewal or reinstatement, means:
 - a. The licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions or provisions of this Chapter, of State law, of any regulations and rules promulgated pursuant to State law, or any supplemental local rules and regulations;
 - b. The licensee or applicant has failed to comply with any special terms or conditions that were placed on its license pursuant to an order of the State Licensing Authority or of the Pueblo County Liquor and Marijuana Licensing Board as the Local Licensing Authority;
 - c. The licensed premises have been operated in a manner that adversely affects the public health, safety or welfare or the safety of the immediate neighborhood in which the establishment is located.
6. "License" means to grant a license or registration pursuant to this Chapter.
7. "Licensed Premises" means the premises specified in an application for a license under this Chapter, which are owned or in possession of the licensee and within which the licensee is authorized to cultivate, manufacture, distribute, test, or sell marijuana in accordance with the provisions of this Chapter and in accordance with the provisions of the Colorado Marijuana Code and any rules adopted pursuant thereto.
8. "Licensee" means a person licensed or registered pursuant to this Chapter.
9. "Limited Access Areas" means and shall be a building, room or other contiguous area upon the licensed premises where marijuana is grown, cultivated, stored, weighed, displayed, packaged, sold or possessed for sale, under control of the licensee, with limited access to only those persons licensed by both the State Licensing Authority and the local Licensing Authority.
10. "Local Licensing Authority" means the Pueblo County Liquor and Marijuana Licensing Board, as established pursuant to Chapter 5.16 of the Pueblo County Code.
11. "Location" means a particular parcel of land that may be identified by an address or other descriptive means.
12. "Marijuana" means both Medical Marijuana and Retail Marijuana as those terms are defined herein.
13. "Marijuana Establishment" means both a Medical Marijuana Establishment and a Retail Marijuana Establishment as those terms are defined herein.
14. "Medical Marijuana" means marijuana that is grown and sold pursuant to the provisions of these regulations, the Colorado Medical Marijuana Code and Section 14 of Article XVIII of the Colorado Constitution.
15. "Medical Marijuana Center" means a person licensed pursuant to this Chapter and pursuant to C.R.S. § 12-43.3-101, et seq., to operate a business as described in these regulations and as is further described in C.R.S. § 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.
16. "Medical Marijuana Establishment" means a medical marijuana center, medical marijuana-infused products manufacturing operation, optional premise cultivation operation, or a storage warehouse.
 17. "Medical Marijuana-Infused Product" means a product infused with medical marijuana that is intended for use or consumption other than by smoking, including, but not limited to edible products, ointments, and tinctures.
 18. "Medical Marijuana-Infused Products Manufacturer" means a person licensed pursuant to this Chapter and to C.R.S. § 12-43.3-101, et seq. to operate a business as described in these regulations and as is also described in C.R.S. § 12-43.3-404.
 19. "Openly and Publicly" for the purpose of consuming marijuana means on public property or a place of business open to the public without restrictions such as a restriction on age or a membership requirement.
 20. "Operating fees" means fees that must be paid by a Retail Marijuana Establishment licensee for the costs of administering and enforcing this Chapter.
 21. "Optional Premises" means the premises specified in an application for a medical marijuana center license with related growing facilities in Pueblo County, Colorado for which the licensee is authorized to grow and cultivate marijuana for a purpose authorized by Section 14 of Article XVIII of the Colorado Constitution.
 22. "Optional Premises Cultivation Operation" means a person licensed pursuant to this Chapter and the Colorado Medical Marijuana Code as defined therein.
 23. "Person" means a natural person, partnership, association, company, corporation, limited liability company, or organization, or a manager, agent, owner, director, or officer thereof; except that "Person" does not include any governmental organization.
 24. "Premises" means a distinct and definite location, which may include a building, a part of a building, a room or any other definite contiguous area.
 25. "Retail Marijuana" means marijuana that is grown, tested, manufactured, and/or sold pursuant to the provisions of these regulations, the Colorado Retail Marijuana Code and Section 16 of Article XVIII of the Colorado Constitution.
 26. "Retail Marijuana Cultivation Facility" means a person licensed pursuant to this Chapter and the Colorado Retail Marijuana Code as defined therein.
 27. "Retail Marijuana Establishment" means a retail marijuana store, a retail marijuana cultivation facility, a retail marijuana product manufacturing facility, storage warehouse, or a retail marijuana testing facility 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.
 28. "Retail Marijuana-Infused Products Manufacturer" means a person licensed pursuant to this Chapter and the Colorado Retail Marijuana Code as defined therein.
 29. "Retail Marijuana Store" means a person licensed pursuant to this Chapter and the Colorado Retail Marijuana Code as defined therein.
 30. "Retail Marijuana Testing Facility" means a person licensed pursuant to this Chapter and the Colorado Retail Marijuana Code as defined therein.
 31. "School" means a public or private elementary, middle, junior high or high school.
 32. "State Licensing Authority" means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, testing and sale of marijuana in this State pursuant to the Colorado Marijuana Code.
 33. "Storage Warehouse" shall mean a premise permitted to store marijuana pursuant to this Chapter and the Colorado Marijuana Code as defined therein. (Res. 11-139, 11-240, 13-216 and 15-038)

5.12.050 General Provisions.

- A. All persons who are engaged in or who are attempting to engage in the cultivation, manufacture, distribution, testing and/or sale of marijuana in any form shall do so only in strict compliance with the terms, conditions, limitations and restrictions in Section 14 and Section 16 of Article XVIII of the Colorado Constitution, the Colorado Marijuana Code, this

Chapter, the provisions of the Pueblo County Code Title 17, and all other State and local laws and regulations.

- B. The Local Licensing Authority is authorized to make rules consistent with the intent and spirit of this Chapter concerning the applications, the application process, the information required of applicants, the application procedures and the administration and procedures to be used and followed in the application and hearing process. (Res. 11-139, 11-240 and 13-216)

5.12.060 Types of Licenses.

- A. The Local Licensing Authority is authorized to issue the following types or classes of licenses for the purpose of regulating Marijuana Establishments. The Local Licensing Authority, in its discretion, and upon application in the prescribed form made to it, may issue and grant to an applicant a Marijuana Establishment license subject to the provisions and restrictions provided in this Chapter 5.12, from any of the following classes:
 1. Medical Marijuana Center License;
 2. Medical Marijuana Optional Premises Cultivation License;
 3. Medical Marijuana-Infused Products Manufacturing License;
 4. Retail Marijuana Store License;
 5. Retail Marijuana Cultivation Facility License;
 6. Retail Marijuana-Infused Products Manufacturing License;
 7. Retail Marijuana Testing Facility License;
 8. Storage Warehouse License.
- B. Until January 1, 2017, the Local Licensing Authority shall not receive and accept applications for a Medical Marijuana Center License or a Retail Marijuana Store License. Notwithstanding anything herein to the contrary, a person who is operating in good standing a licensed Medical Marijuana Center located in Pueblo County or a person who has a pending application for a Medical Marijuana Center License with Pueblo County may apply for a Retail Marijuana Store License for operation in the same licensed premises as such Medical Marijuana Center pursuant to Section 5.12.120. (Res. 11-139, 11-240, 13-216, 14-196 and 15-038)

5.12.070 Standards.

- A. A license provided by this Chapter shall not be issued to or held by any person or entity prohibited as licensees under the provisions of this Chapter and the Colorado Marijuana Code.
- B. The Local Licensing Authority shall not receive or act upon an application for the issuance of a local license pursuant to these regulations:
 1. Until it is established that the applicant is, or will be, entitled to possession of the premises for which application is made under a lease, rental agreement or other arrangement for possession of the premises, or by virtue of ownership of the premises;
 2. For a location in an area where the cultivation, manufacture, distribution, storage, testing, and/or sale of marijuana as contemplated herein is not expressly permitted under the provisions of the Pueblo County Code, Title 17, Division 1, Zoning. Further, the Licensing Authority shall not receive or act upon an application for the issuance of a local license pursuant to these regulations for a location in an area where the cultivation, manufacture, distribution, storage, testing, and/or sale of marijuana as contemplated herein where such location does not meet and comport with the distance, isolation and/or separation distances required for such uses under the provisions of the Pueblo County Code, Title 17, Division 1, Zoning.
- C. The Local Licensing Authority may, in its discretion, deny the grant of a license provided by this Chapter to any person or entity who has prior to or on the date of the application made misrepresentations concerning the business for which the license is being sought on the application or on any of the submittals made with an application.
- D. In deciding whether to approve or deny the application for a license pursuant to this Chapter, the Local Licensing Authority may consider the facts and evidence adduced as a result of any investigation which has been made into the character and background of the proposed

licensee, its owners, officers, directors, agents, servants and/or employees and the sources of its financial investment, as well as any other fact appurtenant to the type of license for which the application has been made and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed.

- E. The Local Licensing Authority may deny a license if the evidence presented does not establish that the premises upon which the license is to be located can be operated by the licensee in a manner that will not adversely affect the public health or welfare or the safety of the immediate neighborhood in which the establishment is to be located or for good cause. The Local Licensing Authority may place conditions upon the approval of any license which are reasonably related to the furtherance, in the opinion of the Local Licensing Authority, and protection of the health, safety and welfare of the neighborhood in which the establishment is to be located and of the general public.
- F. Prior to granting a license, the Local Licensing Authority may further consider all of the requirements of this Chapter, the Colorado Marijuana Code, any applicable state or local law or regulation, and all other reasonable restrictions that are or may be placed upon the licensee by the Licensing Authority.
- G. An approved license, and the licensee approved pursuant to this Chapter shall, at all times, meet and comply with the following operating conditions and standards:
 1. A Medical Marijuana Establishment shall not acquire, possess, cultivate, deliver, transfer, transport, supply, or dispense marijuana for any purpose except to assist the patients as defined by Section 14(1) of Article XVIII of the Colorado Constitution or other applicable state law.
 2. A Retail Marijuana Establishment shall not acquire, possess, cultivate, deliver, store, test, transfer, transport, supply, or dispense marijuana for any purpose except as permitted by the Colorado Retail Marijuana Code.
 3. No license otherwise approved pursuant to this Chapter shall issue until the license, application fees and any licensing or operating fees due to the State of Colorado and/or the County of Pueblo have been fully paid and received. Licenses granted pursuant to this Chapter shall be valid for a period not to exceed one year from the date of issuance unless revoked or suspended pursuant to this Chapter and/or pursuant to the provisions of State law and regulation.
 4. At all times subsequent to the issuance of a license under this Chapter, a licensee shall possess and maintain possession of the premises or optional premises for which the license is issued by ownership, lease, rental or other arrangement for possession and use of the premises.
 5. A licensee of a license issued pursuant to this Chapter shall report each transfer or change of financial interest in the license and/or the licensee to the Local Licensing Authority prior to any such transfer or change pursuant to and in accordance with the provisions of the Colorado Marijuana Code. A report shall be required for transfers of capital stock of any corporation regardless of size, for transfers of member interests of any limited liability company regardless of size and for any transfer of an interest in a partnership or other entity or association regardless of size.
 6. The Local Licensing Authority in its discretion may revoke or elect not to renew any license if it determines that the licensed premises have been inactive, without good cause, for a period of at least one year.
 7. The licensed 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 its designee, and any other state or local law enforcement personnel during all business hours and other times of apparent activity, for the purpose of inspection or investigation. The Local Licensing Authority and its designee may conduct unannounced or covert compliance inspections. For examination of any inventory or books and records required to be kept by the licensees, access shall be required during business hours. Where any part of the licensed premises consists of a locked area, upon demand to the licensee, such area shall be made available for inspection without delay and, upon request by authorized representatives of the Local Licensing Authority, the licensee shall open the area for inspection. Each licensee shall retain all books and records necessary to show fully the

business transactions of the licensee for a period of the current tax year and the three immediately prior tax years.(Res. 11-139, 11-240, 13-216 and 15-038)

5.12.080 Applications: Procedures, Hearings and Determinations.

- A. The Local Licensing Authority or its designee shall be the administrative agent for the purposes of disseminating applications for licenses pursuant to this Chapter and related materials, for the purpose of receiving applications and fees and for the purpose of making determinations of completeness. Upon receipt of a Marijuana Establishment application, the Local Licensing Authority or its designee shall review the application for completeness.
- B. An application for a license identified in Section 5.12.060 of these regulations shall be filed with the State Licensing Authority and shall contain such information as the State Licensing Authority may require, and with the Local Licensing Authority on any additional forms as the Local Licensing Authority may require. Each application and any supporting documentation or submittals shall be verified by the oath or affirmation of the persons submitting the application and any other person as may be prescribed by the State or Local Licensing Authority.
- C. An applicant shall file at the time of application for a license pursuant to this Chapter plans and specifications for the interior of the building if the building to be occupied is in existence at the time of the application. If the building is not in existence or alteration to the building is required at the time of the application, the applicant shall file a plot plan and a detailed sketch for the interior and shall further submit an architect's drawing of the building to be constructed. The local or State licensing authority may impose additional requirements necessary for making a determination of completeness and further submission of the application to the Local Licensing Authority for consideration of approval.
- D. An applicant shall file with the Local Licensing Authority the following at the time of application for a license pursuant to this Chapter.
 1. An operating plan for the proposed Marijuana Establishment including the following information:
 - a. A description of the products and services to be provided by the facility.
 - b. A floor plan showing all interior dimensions of the licensed premises and the layout of the Marijuana Establishment, including all limited access areas, areas of ingress and egress, and all security cameras. Such floor plan shall also show the principal uses of the floor area depicted therein; For cultivation facilities, such floor plan shall distinguish all dimensions of areas in which plants are located;
 - c. A description of the design of the establishment evidencing that the design conforms to applicable Pueblo County laws;
 - d. A security plan indicating how the applicant intends to comply with the requirements of the Colorado Marijuana Code.
 2. A statement of whether or not any person holding any ownership interest has:
 - a. Been denied an application for a Marijuana Establishment license by the state in this or any other jurisdiction or had such a license suspended or revoked; and
 - b. Been convicted of a felony or has completed any portion of a sentence due to a felony charge within the preceding five (5) years.
 3. Proof that the applicant has completed and satisfied the Zoning Compliance Review as required by Title 17, Division I, Zoning of the Pueblo County Code.
 4. All licensing, operating, and other fees due and payable to operate a Marijuana Establishment as determined by the Local Licensing Authority.
 5. Any additional document(s) or information reasonably requested by the Local Licensing Authority.
- E. The Local Licensing Authority or its designee shall inform the applicant in writing of its determination on the question of whether or not the application is complete within thirty (30) days of its receipt of the application. Such determination shall be expressed in writing and shall identify those matters which prevent the determination of completeness or which shall inform that the application has been accepted as being complete. An applicant who has been denied a determination of completeness shall resubmit the application to correct any

deficiencies in completeness no later than thirty (30) days after being informed of the denial. The Local Licensing Authority or its designee may deny the application of an applicant who fails to correct identified deficiencies within thirty (30) days after being informed of such deficiencies.

- F. Upon receipt of an application for a license and upon a determination by the Local Licensing Authority that the same is complete in accordance with these regulations, the Local Licensing Authority shall schedule a public hearing upon the application to be held not less than thirty (30) days after the date of the determination of completeness. The Local Licensing Authority shall post and publish public notice of such hearing not less than ten days prior to the hearing. Public notice shall be given by the posting of a sign in a conspicuous place on the premises for which application has been made and, further, by publication in a newspaper of general circulation in Pueblo County. Notice given by posting shall include a sign, not less than 22" wide and 26" high, composed of letters not less than one inch in height and stating the type of license applied for, the date that the application has been determined to be complete, the date of the hearing, the name and address of the applicant and such other information as may be required to apprise the public of the nature of the application. The sign shall also contain the names and addresses of the officers, directors, or managers of the facility to be licensed. The notice given by publication shall contain the same information. If the building in which the marijuana is to be manufactured, cultivated, or sold is in existence at the time of the application, a sign shall be posted in such place so as to be conspicuous and plainly visible to the general public. If the building is not yet constructed at the time of application, the applicant shall post a sign at the premises upon which the building is to be constructed in such a manner that the notice shall be conspicuous and plainly visible to the general public.
- G. No less than ten days prior to the date of a scheduled public hearing on a license application, the Local Licensing Authority shall make known, based upon its investigation to date, its findings concerning the initial requirements of an application and its preliminary findings concerning whether or not the same appears to meet the standards and requirements set forth in this Chapter. The writing shall be directed to the applicant and copies of the same shall be made available to other parties of interest. Nothing in the initial findings issued prior to the hearing shall conclusively bind the Local Licensing Authority who after the hearing has the authority to refuse to issue a license for good cause in accordance with the terms and provisions and conditions and standards of these regulations and those set forth in State law and regulation.
- H. Prior to making its final decision approving or denying the application, the Local Licensing Authority may consider the facts and evidence adduced as a result of its preliminary investigation as well as the facts and evidence adduced and presented at the hearing as well as any other facts pertinent to the type of license for which application has been made, including the number, type and availability of Marijuana Establishments located in or near the premises under consideration, and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed and whether the applicant will comply with this Chapter and the Colorado Marijuana Code.
- I. Within 30 days after the public hearing, the Local Licensing Authority shall issue its decision approving or denying an application for local licensure. The decision shall be in writing and shall state the reasons for the decision. The Local Licensing Authority shall send a copy of the decision by certified mail to the State and to the applicant at the address shown on the application. Any decision approving a license application may include certain conditions imposed by the Local Licensing Authority in addition to compliance with all of the terms and conditions of this Chapter and compliance with State law and regulation.
- J. The Local Licensing Authority may deny any application for a license that is not in compliance with this Chapter, the Colorado Marijuana Code, any other applicable state or local law or regulation, or for good cause. Notwithstanding, the Local License Authority may issue a conditional or stipulated license.
- K. In the event that the Local Licensing Authority approves an application, the license shall not issue until the building in which the business is to be conducted is ready for occupancy with such furniture, fixtures, and equipment in place as are necessary to comply with the applicable provisions of State law and regulations promulgated pursuant thereto and then only after the Local Licensing Authority has inspected the premises to determine that the applicant has

complied with the architect's drawing and the plot plan and the detailed sketch for the interior of the building submitted with the application.

- L. A license provided and issued pursuant to this Chapter shall specify the date of issuance, the period of licensure (1 year from the date of issuance) the name of the licensee and the premises licensed. The licensee shall conspicuously place the license at all times on the licensed premises or upon an optional premises license pursuant hereto.
- M. Subsequent to the issuance of a license, a licensee shall report each transfer or change of financial interest in the license to the Local Licensing Authority prior to any transfer or change.
- N. The Local Licensing Authority shall issue a license under this article when, after thorough consideration of the application, and from review of such other information as required by this Chapter or the Marijuana Code, the Authority determines that the applicant complies with all of the requirements of this Chapter and the Colorado Marijuana Code.
- O. A Marijuana Establishment shall notify the Local Licensing Authority in writing within 10 days after an owner, officer, or employee ceases to work at, manage, own or otherwise be associated with the operation. The owner, officer or employee shall surrender his or her identification card to the State Licensing Authority on or before the date of notification. A licensed operation shall also notify the Local Licensing Authority in writing of the name, address, and date of birth of an owner, officer, manager or employee within ten days of the new owner, officer or employee begins working at, managing, owning or being associated with the operation.
- P. Notwithstanding any provision of this Chapter to the contrary, the Pueblo County Clerk and Recorder or his or her designee may approve or conditionally approve the following applications without a public hearing:
 - 1. Changing, Altering, or Modifying Licensed Premises;
 - 2. Change of Trade Name;
 - 3. Medical Marijuana Optional Premises Cultivation License at the same location as an existing Marijuana Establishment License;
 - 4. Medical Marijuana-Infused Products Manufacturing License in the same location as an existing Marijuana Establishment License;
 - 5. Retail Marijuana Cultivation Facility License in the same location as an existing Marijuana Establishment License;
 - 6. Retail Marijuana-Infused Products Manufacturing License in the same location as an existing Marijuana Establishment License;
 - 7. Storage Warehouse License in the same location as an existing Marijuana Establishment License.

In the event that the Pueblo County Clerk and Recorder does not approve or conditionally approve an application, the application shall be forwarded to the Pueblo County Liquor and Marijuana Licensing Board for consideration pursuant to section 5.12.080 (F). (Res. 11-139, 11-240, 13-216 and 15-038)

5.12.090 Transfer of Ownership.

- A. A license granted under the provisions of this Chapter shall not be transferrable to any other person except as provided in this Chapter.
- B. For a transfer of ownership, a license holder shall apply to the State and local licensing authorities on forms specifically prepared and furnished for this purpose by the State Licensing Authority. In determining whether to permit a transfer of ownership, the Local Licensing Authority shall consider the requirements of the Colorado Marijuana Code. In addition, no application for a transfer of ownership will be considered by the Local Licensing Authority if, at the time of such application, the licensee is under a notice of violation or other unlawful acts issued by either the Local Licensing Authority or the State Licensing Authority.
- C. The Local Licensing Authority may hold a hearing on a request for transfer of ownership, but not prior to the posting of a notice of said hearing on the licensed premises for a period of at least 10 days prior to the hearing and, further, a notice of the hearing has been issued to the applicant at least ten days prior to the hearing. Notice of such hearing and, further, the hearing itself, shall comply with the requirements for a hearing upon an application for a local

license as are more particularly set forth in section 5.12.080 of this Chapter. (Res. 11-139, 11-240 and 13-216)

5.12.100 License Renewals.

- A. A licensee shall apply for the renewal of an existing license to the Local Licensing Authority not less than 45 days prior to the date of the expiration of the license. Except as hereinafter provided, the Local Licensing Authority shall not accept an application for renewal of a license after the date of expiration.
- B. The Local Licensing Authority may, in its discretion, schedule a hearing on the application for renewal if the licensee has had complaints filed against it, or if the licensee has a history of violation(s), if the licensee has committed any unlawful acts as specified herein and/or if there are allegations against the licensee that would constitute good cause as that term is defined herein. In the event that a hearing is scheduled, notice of such hearing shall be posted on the licensed premises for a period of 10 days prior to the hearing and the applicant shall be notified of such hearing at least 10 days prior to the hearing. The hearing and the more specific requirements of notice shall comport with the other provisions of this Chapter concerning public hearings. All renewal applications shall be approved by the Local Licensing Authority if no hearing is scheduled. The Local Licensing Authority may refuse to renew any license for good cause as that term is defined in these regulations.
- C. Notwithstanding the provisions of the previous subsections of this Section, a licensee whose license has expired for not more than 90 days may file a late renewal application upon the payment of a nonrefundable late license fee of five hundred dollars (\$500.00) to the Local Licensing Authority. A licensee who files a late renewal application and pays the requisite fee may continue to operate until the Local Licensing Authority has taken final action to approve or deny the licensee's late renewal application.
- D. The Local Licensing Authority shall not accept a late renewal application more than 90 days after the expiration of the licensee's permanent annual license. A licensee whose license has been expired for more than 90 days shall not, under any circumstances, cultivate, manufacture, distribute, test or sell any marijuana until a new required license has been obtained. (Res. 11-139, 11-240 and 13-216)

5.12.110 Change of Licensed Location.

- A. A licensee may apply to the Local Licensing Authority to change the location previously approved for such license to any other place in unincorporated Pueblo County, but it shall be unlawful to cultivate, manufacture, distribute, test, store or sell medical or retail marijuana at any such place or location until express permission to do so is granted by the State and the Local Licensing Authority.
- B. A Retail Marijuana Establishment licensee in any Colorado jurisdiction may transfer its license to Pueblo County so long as the State approves the transfer and the applicant completes the application and hearing process set forth in section 5.12.080 herein and otherwise complies with all the requirements of this Chapter and the Colorado Marijuana Code. It shall be unlawful to cultivate, manufacture, distribute, test, store or sell medical or retail marijuana at any such place or location until express permission to do so is granted by the State and the Local Licensing Authority.
- C. In permitting a change of location, the Local Licensing Authority shall consider all reasonable restrictions that are placed upon the current license and/or which may be placed upon the new location by the Local Licensing Authority pursuant to the hearing process set forth in section 5.12.080 and provided the new location complies with the provisions of Pueblo County Code Title 17.
- D. Notwithstanding any provision of this Chapter to the contrary, no change of licensed location application for a Medical Marijuana Center License or a Retail Marijuana Store License operating under the provisions of section 5.12.120 shall be received, accepted or approved unless such application is submitted for both the Medical Marijuana Center License and the

Retail Marijuana Store License for operation on the same licensed premises pursuant to Section 5.12.120. (Res. 11-139, 11-240, 13-216 and 15-038)

5.12.120 Dual Operation.

- A. A person who holds both a license to operate a Medical Marijuana Establishment and a license to operate a Retail Marijuana Establishment may operate both licenses in the same premises ("dual operation") provided the licensee meets the requirements of the Colorado Marijuana Code and this Chapter.
- B. A medical marijuana center licensee may also hold a retail marijuana store license and operate a retail business operation on the same licensed premises provided that the licensee does not authorize patients under the age of 21 years to be on the premises. The licensee must post signage that clearly states "You must be 21 years of age or older to enter this premises." The licensee may display both medical marijuana and retail marijuana on the same sale floor, provided the licensee maintains virtual separation of its inventory. A medical marijuana center that authorizes medical marijuana patients under the age of 21 years to be on the premises cannot share its premises with a retail marijuana establishment and the two shall maintain distinctly separate licensed premises.
- C. A medical marijuana optional premise cultivation operation licensee may also hold a retail marijuana cultivation license on the same premises. Persons operating dual medical and retail cultivation operations shall maintain virtual separation of the facilities, marijuana plants, and marijuana inventory.
- D. A medical marijuana-infused product manufacturer licensee may also hold a retail marijuana-infused product manufacturer license on the same premises. Persons operating a medical marijuana-infused products manufacturing business and a retail marijuana products manufacturing facility shall maintain virtual separation of the facilities, product ingredients, product manufacturing, and final product inventory. (Res. 13-216 and 15-038)

5.12.130 Fees.

- A. Operating fees and all other fees necessary for the administration, regulation, and implementation of this Chapter are as follows:
 1. Initial Operating Fees
 - a. Medical Marijuana Center: \$5000.00
 - b. Medical Marijuana Optional Premise Cultivation Facility: \$5000.00
 - c. Medical Marijuana Infused Product Manufacturing Facility: \$5000.00
 - d. Retail Marijuana Store: \$6000.00
 - e. Retail Marijuana Cultivation Facility: \$5000.00 plus:
 - i. \$.50 per square foot of the portion of the licensed premise in which plants are located for indoor cultivation facilities, including greenhouses, but not to exceed a total of \$15,000.00;
 - ii. \$.25 per square foot of the portion of the licensed premise in which plants are located for outdoor cultivation facilities, but not to exceed a total of \$15,000.00.
 - f. Retail Marijuana Infused Product Manufacturing Facility: \$6000.00
 - g. Retail Marijuana Testing Facility: \$1500.00
 - h. Storage Warehouse: \$1500.00
 2. Administrative Operating Fees
 - a. Change of Location Fee: \$250.00
 - b. Modification of Premises Fee: \$50.00
 - c. Change of Ownership Fee: \$250.00
 - d. Change of Trade Name Fee: \$50.00
 3. Annual Renewal Fees
 - a. Medical Marijuana Center: \$2500.00
 - b. Medical Marijuana Optional Premise Cultivation Facility: \$2500.00
 - c. Medical Marijuana Infused Product Manufacturing Facility: \$2500.00

- d. Retail Marijuana Store: \$6000.00
 - e. Retail Marijuana Cultivation Facility: \$2500.00 plus:
 - 1. \$.50 per square foot of the portion of the licensed premise in which plants are located for indoor cultivation facilities, including greenhouses, not to exceed a total of \$15,000.00;
 - 2. \$.25 per square foot of the portion of the licensed premise in which plants are located for outdoor cultivation facilities, not to exceed a total of \$15,000.00.
 - f. Retail Marijuana Infused Product Manufacturing Facility: \$6000.00
 - g. Retail Marijuana Testing Facility: \$1500.00
 - h. Storage Warehouse: \$1500.00
- B. At least annually, the amount of fees charged pursuant to this section shall be reviewed and, if necessary, adjusted to reflect the direct and indirect costs incurred by the County in connection with the administration and enforcement of this chapter. The Local Licensing Authority by rule or regulation shall set the due dates for any fee due pursuant to this section. (Res. 11-139, 11-240, 13-216, 14-03, 14-59 and 15-038)

5.12.140 Unlawful Acts: License Violations and Enforcement.

- A. It is unlawful and a violation of the terms and conditions of every license issued under this Chapter to cultivate, manufacture, distribute, store, test or sell marijuana, except in compliance with the terms, conditions, limitations and restrictions in Sections 14 and 16 of Article XVIII of the State Constitution, the Colorado Marijuana Code, the provisions of this Chapter, and any conditions imposed on a license pursuant to this Chapter, and the provisions of the Pueblo County Code, Title 17, Division 1, Zoning.
- B. 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 and commerce that are expressly contemplated by this Chapter and the Colorado Marijuana Code
- C. It shall be unlawful for any person to permit the consumption of marijuana on any premise open to the public unless
 - 1. The premise is limited to only those who are twenty-one years of age or older;
 - 2. The premise is clearly marked as place where marijuana is being consumed;
 - 3. The premise complies with the Colorado Clean Indoor Air Act and the Pueblo County Smoke Free Air Act;
 - 4. No alcohol is served on the premise unless the premise is licensed as any of the following:
 - a. Art License;
 - b. Beer and Wine License;
 - c. Bed and Breakfast Permit;
 - d. Brew Pub License;
 - e. Club License;
 - f. Hotel and Restaurant;
 - g. Race Track;
 - h. Retail Gaming Tavern License;
 - i. Special Event Permits; or
 - j. Vintner's Restaurant License;
 - 5. The consumption of marijuana is not done openly and publicly; and
 - 6. The premise otherwise complies with the provisions of Pueblo County Code Title 17, Division 1, Zoning.
- D. It is unlawful and a violation of this Chapter for a Marijuana Establishment to operate until it has been licensed under this Chapter by the Local Licensing Authority and also licensed by the State Licensing Authority pursuant to the Colorado Marijuana Code.
- E. It is unlawful and a violation of this Chapter and, further, a violation of each license issued pursuant to this Chapter for a person or licensee to commit any act or omission which is unlawful pursuant to the Colorado Marijuana Code. In addition to the criminal penalties specified therein, any licensee who commits any acts that are unlawful pursuant to this

Chapter and/or pursuant to the Colorado Marijuana Code shall be subject to a summary suspension, a suspension, fines, and/or a revocation of its license.

- F. 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 licensee shall be afforded an opportunity to be heard, to fine, restrict, suspend or revoke a license issued by the Local Licensing Authority for a violation by the licensee or by any of the agents or employees of the licensee of the provisions of this Chapter, 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 provisions of the Colorado Marijuana Code.
- G. Each person licensed pursuant to this Chapter 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 licensed premises by the Local Licensing Authority shall constitute a violation of this Chapter 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 licensee's license.
- H. No medical marijuana center or retail marijuana store approved pursuant to this Chapter may sell marijuana at any time except between the hours of 8:00am to 7:00pm for a medical marijuana center and between the hours of 8:00am to 11:00pm for a retail store, unless a more restrictive time is set by the Colorado Marijuana Code.
- I. All sales receipts at retail marijuana stores shall contain the Statement, "It is illegal to transfer or sell marijuana or marijuana products to anyone under the age of 21."
- J. All Retail Marijuana Establishments shall post a sign in a conspicuous location stating:

IT IS ILLEGAL TO SELL OR TRANSFER MARIJUANA TO ANYONE UNDER THE AGE OF TWENTY-ONE.

IT IS ILLEGAL TO SEND OR TRANSPORT MARIJUANA TO ANOTHER STATE.

THE POSSESSION OF MARIJUANA REMAINS A CRIME UNDER FEDERAL LAW.

- K. A Marijuana Establishment shall be equipped with a proper ventilation system that filters the odor of marijuana.
- L. In deciding whether a license should be fined, suspended or revoked in accordance with this section, and in deciding what conditions to impose in the event of a suspension, if any, the Local Licensing Authority shall consider:
 1. The nature and seriousness of the violation;
 2. Corrective action, if any, taken by the licensee;
 3. Prior violation(s), if any, at the licensed premises by the licensee and the effectiveness of prior corrective action, if any;
 4. The likelihood of recurrence;
 5. All circumstances surrounding the violation;
 6. Whether the violation was willful;
 7. The length of time the license has been held by the licensee;
 8. The number of violations by the licensee within the applicable twelve (12) month period;
 9. Previous sanctions, if any, imposed against the licensee;
 10. Whether the licensee has a responsible vendor designation;
 11. Whether the licensee supports other local businesses including without limitation the display of local art or use of local ancillary businesses;
 12. Whether the licensee has contributed to or been involved in a charitable giving program; and

- 13. Any other factor making the situation with respect to the licensee or the licensed premises unique.
- M. Notice of suspension or revocation shall be given by mailing the same in writing to the licensee at the licensee's last address of record with the Local Licensing Authority.
- N. Any recommended stipulations or agreements between the licensee and the Local Licensing Authority shall be presented to the Local Licensing Authority at the hearing. The Local Licensing Authority in its discretion may:
 - 1. Accept such stipulation or agreement and dispense with the hearing;
 - 2. Allow limited testimony and evidence and, based thereon, accept such stipulation or agreement without a full hearing, or
 - 3. Reject the stipulation and require a full hearing.
- O. Requests to pay a fine in lieu of serving a suspension period shall be heard by the Local Licensing Authority before the suspension period is set to begin.
- P. The remedies provided in this section are in addition to any other remedy provided by applicable law.
- Q. Any party aggrieved by a final decision of the Local Licensing Authority may be appealed to a district court within twenty eight (28) days following the date of such decision pursuant to the provisions of Rule 106(a)(4), Colorado Rules of Civil Procedure. (Res. 11-139, 11-240 and 13-216, 14-03)

5.12.150 Reserved.

5.12.160 Compliance with State Law.

- A. To the extent the State has adopted or adopts in the future any additional or stricter laws or regulations governing the sale or distribution of marijuana, the additional or stricter regulations shall control the establishment or operation of any Marijuana Establishment in Pueblo County. Compliance with any applicable State law or regulation shall be deemed an additional requirement for issuance or denial of any license under this Chapter, and noncompliance with any applicable State law or regulation shall be grounds for fines, administrative action, revocation, or suspension of any license issued hereunder.
- B. Any Marijuana Establishment licensed pursuant to this Chapter may be required to demonstrate, upon demand by the Local Licensing Authority or by law enforcement officers that the source and quantity of any marijuana found upon the licensed premises is in full compliance with any applicable State law or regulation. (Res. 13-216)

5.12.170 Storage Warehouses. Any person licensed pursuant to this Chapter may operate a storage warehouse for medical and/or retail marijuana provided they meet all the requirements of the Colorado Marijuana Code and the storage warehouse is proposed to be located in place where warehouses are permitted pursuant to Title 17, Division 1, Zoning. (Res. 13-216)

5.12.180 Marijuana Accessories. Any person twenty-one years of age or older is hereby authorized to manufacture, possess, distribute, sell or purchase marijuana accessories in conformance with Section 16 of Article XVIII of the Colorado Constitution, provided they meet all applicable state or local laws. (Res. 13-216)

5.12.190 Severability. If any provision of this Chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Chapter that can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared to be severable. (Res. 13-216)

**APPENDIX G:
Pueblo County Code
Title 17—Marijuana
Land Uses**

“Medical Marijuana” means marijuana that is grown, manufactured, stored, and/or sold pursuant to the provisions of these regulations; the Colorado Medical Marijuana Code and Section 14 of Article XVIII of the Colorado Constitution.

“Medical Marijuana Center” means a person licensed pursuant to this Title and pursuant to C.R.S. 12-43.3-101, et seq., to operate a business as described in the Licensing Regulations and as is further described in C.R.S. 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 intended 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 C.R.S. 12-43.3-101, et seq. to operate a business as described in the Licensing Regulations and as also described in C.R.S. 12-43.3-404.

“Medical Marijuana Optional Premises” means the premises specified in an application for a Medical Marijuana Center license with related growing facilities in Pueblo County, Colorado, for which the licensee is authorized to grow and cultivate marijuana for a purpose authorized by Section 14 of Article XVIII of the Constitution of the State of Colorado.

“Medical Marijuana Optional Premises Cultivation Operation” means a person licensed pursuant to this Title and to C.R.S. 12-43.3-101, et seq. to operate a business as described in the Licensing Regulations and as further described in C.R.S. 12-43.3-403.

“Medical Marijuana Contiguous Optional Premises Cultivation Operation” means a licensed Medical Marijuana Optional Premises Cultivation Operation located in the B-4, Community Business Zone District, B-1, Neighborhood Business Zone District, I-1/I-2/I-3, Industrial Zone Districts, Planned Unit Development (PUD) Zone District, or R-5, Multiple-Residential and Office Zone District within the same building, or in another building on the same parcel of land as the licensed Medical Marijuana Center or licensed Medical Marijuana-Infused Products Manufacturer is located, or in a separate building located on a separate but adjacent parcel of land which shares at least 50% of a common lot line with the parcel upon which the licensed Medical Marijuana Center or licensed Medical Marijuana-Infused Products Manufacturer is located.

“Medical Marijuana Non-Contiguous Optional Premises Cultivation Operation” means a licensed Medical Marijuana Optional Premises Cultivation Operation located in the a) A-1/A-2, Agricultural Zone Districts in a building, greenhouse, or outside cultivation, OR b) in the I-1/I-2, Industrial Zone Districts in a building or greenhouse, OR c) I-3, Heavy Industrial Zone District, located in a building, OR d) in the Planned Unit Development (PUD) Zone District in a building, greenhouse, or outside cultivation. Non-Contiguous means the marijuana cultivation operation is not on the same property or in the same building with a Medical Marijuana Center or Medical Marijuana-Infused Products Manufacturer.

“Retail Marijuana” means marijuana that is grown, tested, manufactured, stored and/or sold pursuant to the provisions of these regulations, the Colorado Retail Marijuana Code and by Section 16 of Article XVIII of the Colorado Constitution.

“Retail Marijuana Contiguous Cultivation Facility” means a licensed Retail Marijuana Cultivation Facility located in the B-4, Community Business Zone District, B-1, Neighborhood Business Zone District, I-1/I-2/I-3, Industrial Zone Districts, Planned Unit Development (PUD) Zone District, or R-5, Multiple-Residential and Office Zone District within the same building, or in another building on the same parcel of land as the licensed Retail Marijuana Store or licensed

Retail Marijuana-Infused Products Manufacturer is located, or in a separate building located on a separate but adjacent parcel of land which shares at least 50% of a common lot line with the parcel upon which the licensed Retail Marijuana Store or licensed Retail Marijuana-Infused Products Manufacturer is located.

“Retail Marijuana Cultivation Facility” means a person licensed pursuant to this Chapter and to C.R.S. § 12-43.4-403, to operate a business as described in these regulations and any rules adopted pursuant thereto.

“Retail Marijuana Establishment” means a Retail Marijuana Store, a Retail Marijuana Cultivation Facility, a Retail Marijuana Product Manufacturing Facility, 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.

“Retail Marijuana-Infused Products Manufacturer” means a person licensed pursuant to this Chapter and the Colorado Retail Marijuana Code.

“Retail Marijuana Non-Contiguous Cultivation Facility” means a licensed Retail Marijuana Cultivation Facility located in the a) A-1/A-2, Agricultural Zone Districts in a building, greenhouse, or outside cultivation, OR b) I-1/I-2, Industrial Zone Districts in a building or greenhouse, OR c) I-3, Heavy Industrial Zone District in a building, OR d) in the Planned Unit Development (PUD) Zone District in a building, greenhouse, or outside cultivation. Non-Contiguous means the marijuana cultivation facility is not on the same property or in the same building with a Retail Marijuana Store or Retail Marijuana-Infused Products Manufacturer.

“Retail Marijuana Store” means a person licensed pursuant to this Chapter and the Colorado Retail Marijuana Code.

“Retail Marijuana Testing Facility” means a person licensed pursuant to this Chapter and the Colorado Retail Marijuana Code.

Pueblo County Code - Title 17 - Chapter 17.12 AGRICULTURAL ONE (A-1) AND TWO (A-2) DISTRICTS

17.12.020 Uses by right.

Medical Marijuana Non-Contiguous Optional Premises Cultivation Operation as defined in [Section 17.04.040](#), Definitions and subject to [Section 17.120.230](#), Medical Marijuana Non-Contiguous Optional Premises Cultivation Operation in this Title;

Retail Marijuana Non-Contiguous Cultivation Facility as defined in [Section 17.04.040](#), Definitions and subject to [Section 17.120.230](#), Retail Marijuana Non-Contiguous Cultivation Facility in this Title;

Pueblo County Code - Title 17 - Chapter 17.64 COMMUNITY BUSINESS DISTRICT (B-4)

17.64.020 Uses by right.

Medical Marijuana Center located 250 feet or greater from any existing residence/mobile home, Medical Marijuana-Infused Products Manufacturer, and Medical Marijuana Contiguous Optional Premises Cultivation Operation as defined in [Section 17.04.040](#), Definitions and subject to [Sections 17.120.200](#), [17.120.210](#) and [17.120.220](#), respectively, in this Title.

Retail Marijuana Store located 250 feet or greater from any existing residence/mobile home, Retail Marijuana-Infused Products Manufacturer, Retail Marijuana Contiguous Cultivation Operation Facility, and Retail Marijuana Testing Facility as defined in [Section 17.04.040](#), Definitions and subject to [Sections 17.120.200](#), [17.120.210](#), [17.120.220](#), and [17.120.240](#), respectively, in this Title.

17.64.030 Uses by review.

Medical Marijuana Center located within 250 feet from any existing residence/mobile home as defined in [Section 17.04.040](#), Definitions and subject to [Section 17.120.200](#) in this Title;
Private Social Club, Marijuana Permitted;

Retail Marijuana Store located within 250 feet from any existing residence/mobile home as defined in [Section 17.040.040](#), Definitions and subject to [Section 17.120.200](#) in this Title;

Pueblo County Code - Title 17 - Chapter 17.60 NEIGHBORHOOD BUSINESS DISTRICT (B-1)

17.60.030 Uses by review.

A use by review is any of the uses by right in the Business-4 (B-4) district plus a caretaker's residence (one parking space per dwelling unit) which are permitted only upon issuance of a Special Use Permit by the Planning Commission.

Pueblo County Code - Title 17 - Chapter 17.68 SPECIAL INDUSTRIAL DISTRICT (I-1)

17.68.020 Uses by right.

Medical Marijuana-Infused Products Manufacturer, Medical Marijuana Contiguous Optional Premises Cultivation Operation, and Medical Marijuana Non-Contiguous Optional Premises Cultivation Operation as defined in [Section 17.04.040](#), Definitions and subject to [Sections 17.120.210](#), [17.120.220](#), and [17.120.230](#) respectively, in this Title;

Retail Marijuana-Infused Products Manufacturer, Retail Marijuana Contiguous Cultivation Facility Operation, Retail Marijuana Non-Contiguous Cultivation Facility, and Retail Marijuana Testing Facility as defined in [Section 17.04.040](#), Definitions and subject to [Sections 17.120.210](#), [17.120.220](#), [17.120.230](#), and [17.120.240](#), respectively, in this Title;

Pueblo County Code - Title 17 - Chapter 17.72 LIGHT INDUSTRIAL DISTRICT (I-2)

17.72.020 Uses by right.

Medical Marijuana-Infused Products Manufacturer, Medical Marijuana Contiguous Optional Premises Cultivation Operation, and Medical Marijuana Non-Contiguous Optional Premises Cultivation Operation as defined in [Section 17.04.040](#) Definitions and subject to [Sections 17.120.210](#), [17.120.220](#), and [17.120.230](#), respectively, in this Title;

Retail Marijuana-Infused Products Manufacturer, Retail Marijuana Contiguous Cultivation Facility Operation, Retail Marijuana Non-Contiguous Cultivation Facility, and Retail Marijuana Testing Facility as defined in [Section 17.04.040](#) Definitions and subject to [Sections 17.120.210](#), [17.120.220](#), [17.120.230](#), and [17.120.240](#), respectively, in this Title;

Pueblo County Code - Title 17 - Chapter 17.76 HEAVY INDUSTRIAL DISTRICT (I-3)

17.76.030 Uses by review.

Medical Marijuana Contiguous Cultivation Facility;
 Medical Marijuana-Infused Products Manufacturing Facility;
 Medical Marijuana Non-Contiguous Cultivation Facility;
 Retail Marijuana Contiguous Cultivation Facility;
 Retail Marijuana-Infused Products Manufacturing Facility;
 Retail Marijuana Non-Contiguous Cultivation Facility;
 Retail Marijuana Testing Facility;

Pueblo County Code - Title 17 - Chapter 17.120 SUPPLEMENTARY REGULATIONS

17.120.190 Marijuana Establishments

A. Prior to the operation of any Marijuana Establishment, a license must be obtained from the State of Colorado and from Pueblo County and a Zoning Compliance Review must be obtained from the Pueblo County Planning and Development Department. For purposes of this Section, an approved Zoning Compliance Review Marijuana shall expire six (6) months from the date of approval unless an application for Licensure under Chapter 5.12 of the Pueblo County Code has been submitted.

B. Uses established pursuant to this Section shall at all times be in complete compliance with the terms and conditions of its Marijuana Establishment license for licenses issued by the State of Colorado and the Local Licensing Authority.

C. No Marijuana Establishment shall be allowed as a Home Occupation use.

D. Distances are measured from the nearest wall of the Licensed Premise to the nearest portion of the wall of the premise of the prohibited use using a direct line, except as noted in Section 17.120.200 C., Section 17.120.210 C., Section 17.120.220 C., and Section 17.120.230 C.

E. No Marijuana Establishment shall be located in:

1. a building containing residential units,
2. a movable or mobile structure.

17.120.200 Medical Marijuana Center and Retail Marijuana Store

A. Permitted Zone District. Medical Marijuana Center and Retail Marijuana Store are only permitted in the B-4, Community Business Zone District as a use-by-right if the Center or Store is located 250 feet or greater from any existing residence/mobile home; in the B-4, Community Business Zone District as a use-by-review if the Center or Store is located within 250 feet from any existing residence/mobile home; the B-1, Neighborhood Business Zone District as a use-by-review; R-5, Multiple-Residential and Office Zone District as use-by-review; and in the Planned Unit Development (PUD) Zone District subject to the definitions set forth in this Title.

B. Definition of Medical Marijuana Center and Retail Marijuana Store as defined in [Section 17.04.040](#) Definitions.

C. Location. No Medical Marijuana Center or Retail Marijuana Store shall be located within 1,000 feet of any existing public or private elementary, middle, junior high or high school as measured from property line of the school to the wall of the Medical Marijuana Center or Retail Marijuana Store.

D. Location. No Medical Marijuana Center or Retail Marijuana Store shall be located within 250 feet of the following:

1. Any existing church or religious institution in any district except the B-4 district,
2. Any existing licensed childcare facility,
3. Any existing alcohol or drug rehabilitation facility,
4. Any existing group home for the developmentally disabled, or
5. Any existing halfway house or correctional facility.

--Existing means existing and in operation at the time of the licensing of the Marijuana use.

6. For any Medical Marijuana Center or any Retail Marijuana Store located within 250 feet of any existing residence/mobile home, the Center or Store shall be a use-by-review in the B-4 Zone District therefore required to apply for a Special Use Permit with the Department of Planning and Development to be heard the Pueblo County Planning Commission.

7. For any Medical Marijuana Center or any Retail Marijuana Store located 250 feet or greater from any existing residence/mobile home, the Center or Store shall be a use-by-right in the B-4 Zone District.

E. Location. No Medical Marijuana Center or Retail Marijuana Store shall be located within 1,000 feet from any other existing Licensed Medical Marijuana Center or Retail Marijuana Store, whether such business is located within or outside of the county, unless the business is part of a dual operation with the License at issue, as measured from the nearest wall of the proposed Medical Marijuana Center or proposed Retail Marijuana Store to the nearest portion of the wall of the existing Medical Marijuana Center or existing Retail Marijuana Store. An existing Licensed Medical Marijuana Center or Retail Marijuana Store is allowed to construct an addition onto the existing building and/or move into an adjoining suite pursuant to this Section or Chapter 5.12 of the [Pueblo County Code](#).

F. The requirements of Section 17.120.200 E. shall not apply to a premise that has been previously approved pursuant to a Zoning Compliance Review Marijuana application for a

Medical Marijuana Center or Retail Marijuana Store. In such cases where a premise has an approved Zoning Compliance Review Marijuana application and is Licensed under Chapter 5.12 of the Pueblo County Code, the requirements of Section 17.120.200 E shall not apply, subject to the Medical Marijuana Center or Retail Marijuana Store at the premise having been continuously Licensed under Chapter 5.12 or a new application for a Medical Marijuana Center or Retail Marijuana Store is submitted to the local licensing authority within thirty (30) days of revocation, surrender or change of location of the existing license.

17.120.210 Medical Marijuana-Infused Products Manufacturer and Retail Marijuana-Infused Products Manufacturer

- A. Permitted Zone District. Medical Marijuana-Infused Products Manufacturer and Retail Marijuana-Infused Products Manufacturer are only permitted in the B-4, Community Business Zone District as a use-by-right; in the I-1/I-2, Industrial Zone Districts as a use-by-right; I-3, Heavy Industrial Zone District as a use-by-review; and in the Planned Unit Development (PUD) Zone District subject to the definitions set forth in this Title.
- B. Definition of Medical Marijuana-Infused Products Manufacturer and Retail Marijuana-Infused Products Manufacturer as defined in [Section 17.04.040](#) Definitions.
- C. Location. No Medical Marijuana-Infused Products Manufacturer and Retail Marijuana-Infused Products Manufacturer shall be located within 1,000 feet of any existing public or private elementary, middle, junior high or high school as measured from property line of the school to the wall of the Medical Marijuana-Infused Products Manufacturer and Retail Marijuana-Infused Products Manufacturer.
- D. Location. No Medical Marijuana-Infused Products Manufacturer and Retail Marijuana-Infused Products Manufacturer shall be located within 250 feet of the following:
 1. Any existing licensed childcare facility,
 2. Any existing alcohol or drug rehabilitation facility,
 3. Any existing group home for the developmentally disabled, or
 4. Any existing halfway house or correctional facility.
 - Existing means existing and in operation at the time of the licensing of the Marijuana use.

17.120.220 Medical Marijuana Contiguous Optional Premise Cultivation Operation and Retail Marijuana Contiguous Cultivation Facility

Medical Marijuana Contiguous Optional Premise Cultivation Operation and Retail Marijuana Contiguous Cultivation Facility shall only be allowed as a contiguous location of the licensed premises of the person's corresponding Medical Marijuana Center, Retail Marijuana Store or the person's Medical Marijuana-Infused Products Manufacturer or Retail Marijuana-Infused Products Manufacturer.

- A. Permitted Zone District. Medical Marijuana Contiguous Optional Premises Cultivation Operation and Retail Marijuana Contiguous Cultivation Facility are only permitted in the B-4, Community Business Zone District as a use-by-right; in the B-1, Neighborhood Business Zone District as a use-by-review; in the I-1/I-2, Industrial Zone Districts as a use-by-right; in the I-3, Heavy Industrial Zone District as a use-by-review; R-5, Multiple-Residential and Office Zone District as a use-by-review; and in the Planned Unit Development (PUD) Zone District subject to the definitions set forth in this Title.
- B. Definition of Medical Marijuana Contiguous Optional Premises Cultivation Operation and Retail Marijuana Contiguous Cultivation Facility as defined in [Section 17.04.040](#) Definitions.
- C. Location. No Medical Marijuana Contiguous Optional Premises Cultivation Operation and Retail Marijuana Contiguous Cultivation Facility shall be located within 1,000 feet of any existing public or private elementary, middle, junior high or high school as measured from property line of the school to the wall or fence if an outdoor cultivation of the

Medical Marijuana Contiguous Optional Premises Cultivation Operation and Retail Marijuana Contiguous Cultivation Facility.

- D. Location. No Medical Marijuana Contiguous Optional Premises Cultivation Operation and Retail Marijuana Contiguous Cultivation Facility shall be located within 250 feet of the following:
1. Any existing residence/mobile home in the following zone districts: A-3, A-4, R-A, R-1, R-2, R-3, R-4, R-7, R-8, and PUD where the principal use is residential,
 2. Any existing licensed childcare facility,
 3. Any existing alcohol or drug rehabilitation facility,
 4. Any existing group home for the developmentally disabled,
 5. Any existing halfway house or correctional facility.
- Existing means existing and in operation at the time of the licensing of the Marijuana use.
- E. The requirements of this subsection 17.120.220 shall not be applied to a premise where any person was previously issued a license pursuant to this article or Section 5.12 of the Pueblo County Code.

17.120.230 Medical Marijuana Non-Contiguous Optional Premises Cultivation Operation and Retail Marijuana Non-Contiguous Cultivation Facility

- A. Permitted Zone District. Medical Marijuana Non-Contiguous Optional Premises Cultivation Operation and Retail Marijuana Non-Contiguous Cultivation Facility are only permitted in the A-1/A-2, Agricultural Zone Districts as a use-by-right; in the I-1/I-2, Industrial Zone Districts as a use-by-right; in the I-3, Heavy Industrial Zone District, as a use-by-review; and in the Planned Unit Development (PUD) Zone District subject to the definitions set forth in this Title.
- B. Definition of Medical Marijuana Non-Contiguous Optional Premises Cultivation Operation and Retail Marijuana Non-Contiguous Cultivation Facility as defined in [Section 17.04.040](#) Definitions.
- C. Location. No Medical Marijuana Non-Contiguous Optional Premises Cultivation Operation or Retail Marijuana Non-Contiguous Cultivation Facility shall be located within 1,000 feet of the any existing public or private elementary, middle, junior high or high school as measured from property line of the school to the wall or fence if an outdoor cultivation of the Medical Marijuana Non-Contiguous Optional Premises Cultivation Operation or Retail Marijuana Non-Contiguous Cultivation Facility.
- D. Location. No medical marijuana non-contiguous optional premises cultivation operation and retail marijuana non-contiguous cultivation facility shall be located within 250 feet of the following:
1. Any existing residence/mobile home in the following zone districts: A-3, A-4, R-A, R-1, R-2, R-3, R-4, R-7, R-8, and PUD where the principal use is residential,
 2. Any existing licensed childcare facility,
 3. Any existing alcohol or drug rehabilitation facility,
 4. Any existing group home for the developmentally disabled,
 5. Any existing halfway house or correctional facility.
- Existing means existing and in operation at the time of the licensing of the Marijuana use.
- E. The requirements of this subsection 17.120.230 shall not be applied to a premise where any person was previously issued a license pursuant to this article or Section 5.12 of the Pueblo County Code.

17.120.240 Retail Marijuana Testing Facility

- A. Permitted Zone District. Retail Marijuana Testing Facility is only permitted in the O-1, Neigh-borhood Office District as a use-by-review; I-1/I-2 Industrial Zone Districts as a use-by-right; I-3, Heavy Industrial Zone District as a use-by-review; B-4 Community

Business Zone District as a use-by-right; and in the Planned Unit Development (PUD) Zone District subject to the definitions set forth in this Title.

B. Definition of retail marijuana testing facility as defined in Section 17.04.040, Definitions.

17.120.250 Prohibited Uses

Except as are expressly permitted under the terms of this Title 17, Medical Marijuana Centers, Medical Marijuana-Infused Products Manufacturer, Medical Marijuana Optional Premises Cultivation Operations, Retail Marijuana Stores, Retail Marijuana Cultivation Facilities, Retail Marijuana-Infused Products Manufacturers, Retail Marijuana Testing Facilities, and Storage Warehouses, as well as any other activity involved in the cultivation, testing and distribution or sale of marijuana or marijuana infused products, are expressly prohibited as land uses in Pueblo County.

Pueblo County Code - Title 17 - Chapter 17.116 ADVERTISING DEVICES AND SIGNS

17.116.150 Advertising Restrictions for Marijuana Establishments.

- A. This section shall apply to Marijuana Establishments defined in Section 17.04.040, Definitions.
- B. “Advertise, advertising or advertisement” means the act of drawing the public’s attention to a Marijuana Establishment’s premise or name in order to promote the sale of marijuana or marijuana products.
- C. This section is in addition to, and not in lieu of, any other restrictions set forth in this Chapter 17.116.
- D. The following advertising devices and signs shall be prohibited:
 1. Billboards, sign-spinners, A-frames, sandwich boards, sidewalk signs, or curb signs;
 2. Signs on motor vehicles or other moving signs;
 3. Animated signs, neon signs, flashing signs, or electronically controlled signs;
 4. Any sign that is not kept in good repair. Good repair means, at a minimum, that the sign is properly anchored, does not contain cracks, broken wood, missing letters or symbols and is protected from the elements and against decay and rust by the periodic application of a weather-coating material;
 5. Streamers, balloons, flags, or inflatable displays;
 6. Leaflets or flyers excluding bona-fide business cards;
 7. Signs or displays outside of the premises that advertise potency, strain, character, class, or other statement that implies the effects of the consumption of marijuana; and
 8. Advertisements that use numbers in relation to the price of marijuana (i.e., any prices, ½ off, free 1/8th).
- E. A Marijuana Establishment shall not use any neon or fluorescent paint that is luminescent or gives off visible light through fluorescence, phosphorescence, or radioluminescence in any advertisement located on the premise or building.
- F. The prohibitions in this paragraph 17.116.150 (D) shall not apply to:
 1. Any advertisement contained within a newspaper, magazine, or other periodical of general circulation within the County; or
 2. Advertising which is purely incidental to sponsorship of a charitable event by a Marijuana Establishment.
- G. A Retail Marijuana Establishment must display a green cross or a steel or wood circular sign containing the number “64” in order to designate the premises. This sign must be located on the exterior of the premises. The form requirements for such sign shall be provided by, and all such signs shall be approved by, the Pueblo County Planning and Development Department.
- H. All signs by Marijuana Establishments shall meet all other requirements of this Code.

**APPENDIX H:
Pueblo County Code
Title 17—Marijuana
Home Grows**

RESOLUTION NO. P&D 15- 047**THE BOARD OF COUNTY COMMISSIONERS
OF PUEBLO COUNTY, COLORADO****A RESOLUTION APPROVING TEXT AMENDMENT NO. 2014-004 AMENDING THE
PUEBLO COUNTY CODE, TITLE 17, LAND USE, DIVISION I. ZONING, BY
AMENDING SECTION 17.04.040 DEFINITIONS AND BY ADDING CHAPTER
17.119 MARIJUANA HOME GROW (NON-LICENSED GROW)**

WHEREAS, the Board of County Commissioners is authorized, after public notice and a public hearing, to adopt and amend regulations governing the zoning of land within the unincorporated area of Pueblo County, Colorado; and

WHEREAS, Text Amendment No. 2014-004 proposes amending the Pueblo County Code, Title 17 Land Use, Division I. Zoning by adding Chapter 17.119 Marijuana Home Grow (Non-Licensed Grow) as shown in Exhibit "A", attached hereto; and

WHEREAS, a public meeting was held by the Pueblo County Planning Commission on August 26, 2014, at the conclusion of which the Planning Commission voted unanimously to recommend approval of Text Amendment No. 2014-004, with several recommended revisions, to the Board of County Commissioners; and

WHEREAS, at said Planning Commission meeting, no one spoke in opposition to Text Amendment No. 2014-004; and

WHEREAS, a public hearing, preceded by proper public notice, was opened by the Board of County Commissioners on September 22, 2014 and continued to October 8, 2014 with subsequent continuances to the following dates: October 15, 2014, December 10, 2014, December 22, 2014, May 4, 2015, June 10, 2015, July 15, 2015, and then continued to August 12, 2015 and, at said hearings, all those who desired to be heard were heard and their testimony recorded; and

WHEREAS, the Board has reviewed and taken administrative notice of the recommendation of the Planning Commission and also the testimony, application, evidence, documents submitted at the public hearings, and the contents of the Planning Director's file.

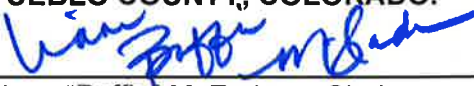
NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Pueblo County, Colorado, that Text Amendment No. 2014-004 is hereby approved amending the Pueblo County Code, Title 17, Land Use, Division I. Zoning by adding definitions and by adding Chapter 17.119 Marijuana Home Grow (Non-Licensed Grow) as attached and incorporated herein by this reference labeled EXHIBIT "A".

BE IT FURTHER RESOLVED, Text Amendment No. 2014-004 is effective on November 1, 2015.

RESOLUTION NO. P&D 15- 047 (CONT.)

PASSED AND ADOPTED this 12TH day of AUGUST 2015, in Pueblo County, Colorado.

**THE BOARD OF COUNTY COMMISSIONERS
OF PUEBLO COUNTY, COLORADO:**

By: 
Liane "Buffie" McFadyen, Chair

ATTEST:

By: 
Gilbert Ortiz, County Clerk

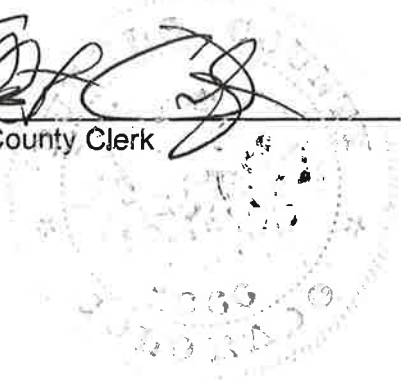


EXHIBIT "A"**PROPOSED LANGUAGE**

Chapter 17.119 Marijuana Home Grow (Non-Licensed Grow)

17.119.010 Scope and Purpose

It is the purpose of this Chapter to require that persons engaging in Marijuana Production, as defined herein, on property within the unincorporated area of Pueblo County pursuant to Sections 14 or 16 of Article XVIII of the Colorado Constitution do so in a safe manner that does not endanger the public health, safety, and welfare, or create a public nuisance. This Chapter does not apply to the Licensed Premises of any Marijuana Establishment licensed pursuant to Title 5 of the Pueblo County Code.

17.119.020 Definitions

For purposes of this Chapter, the following terms shall have the following meanings:

- A. "Alcohol-Based Extraction" means Extraction/Extracting through the use of alcohol or ethanol. "Inherently hazardous substances" as defined in C.R.S. 18-18-406.6 shall not be used in Alcohol-Based Extraction.
- B. "Agricultural Zone Districts" means the A-1 and A-2 Zone Districts.
- C. "Building Code" means any building code, as amended or later adopted by Pueblo County pursuant to C.R.S. § 30-28-201 et seq., that may be applicable to a given structure.
- D. "Enclosed Locked Structure" means a structure that:
 - 1) does not allow for the visibility of the interior from the outside;
 - 2) is secured with a lock;
 - 3) is completely surrounded on all sides by a wall; and
 - 4) is roofed.

Enclosed Locked Structures may include dwelling units and other primary structures as well as greenhouses and accessory buildings. Any Enclosed Locked Structure shall comply with the Building Code as required by the Pueblo Regional Building Department and with the Fire Code from the appropriate Fire Official.

- E. "Extraction/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 C.R.S. 18-18-406.6 as permitted by this Chapter. 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 and the act of making those edible products. The making of edible products is permitted only in a single-family dwelling or a unit of a multi-family dwelling or in an industrial building in compliance with the Building Code as required by the Pueblo Regional Building Department, with the Fire Code from the appropriate Fire Official, with the Pueblo City-County Health Department Regulations, and any other applicable State or local law. The use of the term "Extraction" or "Extracting" in this Chapter with respect to a category of zone districts shall not be construed to permit all forms of extraction that might be

encompassed in this definition within those districts but instead shall be limited by the provisions of paragraph O of Section 17.119.040.

- F. "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 C.R.S. 18-18-406.6 shall not be used in Food-Based Extraction.
- G. "Industrial Zone Districts" means the I-1, I-2, and I-3 Zone Districts.
- H. "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.
- I. "Marijuana Production" means non-commercial growing, Processing, Extracting and/or Storing Marijuana as defined herein.
- J. "Processing" means the drying, trimming, and packaging of Marijuana plants, but "processing" does not mean marijuana-infused product manufacturing and/or extraction.
- K. "Residential Zone Districts" means the A-3, A-4, R-A, R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8 Zone Districts.
- L. "Storing," as that term applies to the storing of Marijuana, means the storing of Marijuana by the person who grew or grew and Processed the same prior to any transfer of such Marijuana to any other 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.
- M. "Subject Zone Districts" means the A-1, A-2, A-3, A-4, R-A, R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, I-1, I-2, and I-3 Zone Districts.
- N. "Water-Based Extraction" means Extraction/Extracting through the use of only water, ice, or dry ice.

17.119.030 Prohibited Zone Districts

Marijuana Production is prohibited in all Zone Districts except the Subject Zone Districts.

17.119.040 Subject Zone Districts

- A. In all Subject Zone Districts, any person(s) engaged in Marijuana Production shall be twenty-one (21) years of age or older except for medical Marijuana patients or caregivers who are engaged in Marijuana Production of medical Marijuana pursuant to Article XVIII, Section 14 of the Colorado Constitution. Caregivers operating in Subject Zone Districts pursuant to Section 14 of Article XVIII of the Colorado Constitution shall provide the Department of Planning and Development with the State Licensing Authority registration certificate/document.
- B. In Residential Zone Districts, the following restrictions shall apply:
 - i. No more than 18 Marijuana plants may be grown on any single-family dwelling property at any one time.

- No more than 12 Marijuana plants may be grown on the property of any unit of a multi-family dwelling, including the unit itself and any accessory building.
- ii. Subject to paragraph J of this Section, Marijuana Production may occur in the single-family dwelling, the unit of a multi-family dwelling, or greenhouse and/or accessory building located on the same property as the dwelling or dwelling unit and accessible only to the owners or occupants of the specific dwelling or dwelling unit.
 - iii. In order to engage in Marijuana Production in a single family dwelling or unit of a multi-family dwelling, the person(s) engaged in Marijuana Production must reside in the same dwelling or dwelling unit. In order to engage in Marijuana Production in a greenhouse and/or accessory building, a single-family dwelling or unit of a multi-family dwelling shall be on the same property as the greenhouse and/or accessory building and such dwellings shall be occupied by the person(s) engaged in Marijuana Production. There shall be no Processing, Extracting, and/or Storing of Marijuana off premise from where the Marijuana is grown.
 - iv. All Marijuana Production in the Residential Zone Districts shall comply with the Building Code for One (1) and Two (2) Family Standards or for Multi-Family Standards as required by the Pueblo Regional Building Department, with the Fire Code required from the appropriate Fire Official, and with the Pueblo City-County Health Department Regulations.
- C. In Industrial Zone Districts, no more than 36 Marijuana plants may be grown in an industrial/commercial building and/or industrial/commercial greenhouse. All Marijuana Production shall be conducted within the same industrial/commercial building and/or industrial/commercial greenhouse. There shall be no Processing, Extracting, and/or Storing of Marijuana off premise from where the Marijuana is grown. This paragraph shall not be construed to permit patients, caregivers, or other persons to reside in structures located in Industrial Zone Districts. All Marijuana Production in the Industrial Zone Districts shall comply with the Building Code Commercial Building Standards as required by the Pueblo Regional Building Department, with the Fire Code from the appropriate Fire Official, and with the Pueblo City-County Health Department Regulations.
- D. In Agricultural Zone Districts, no more than 36 Marijuana plants may be grown on any parcel. Marijuana Production in Agricultural Zone Districts is subject to the requirements of paragraph B of this Section, except that in Agricultural Zone Districts Marijuana may also be grown, but not Processed, Extracted, and Stored, outdoors, subject to the following conditions:
- i. Any Marijuana grown outdoors shall be contained entirely in an area that is completely fenced and screened with a locked gate and not visible from any right-of-way, any other residence, or the public.
 - ii. No outdoor Marijuana grow area shall be located within five (5)-miles from any outdoor Hemp Establishment as defined in the Pueblo County Code, Title 17 Land Use, Division I. Zoning as measured from the property line of the Marijuana grow to the property line of the Hemp Establishment.
 - iii. In order to engage in Marijuana Production in Agricultural Zone Districts, 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 parcel. There shall be no Processing, Extracting, and/or Storing of Marijuana off premise from where the Marijuana is grown.
- E. The number of plants allowed on properties in all Subject Zone Districts shall be limited to the maximum number allowed in this Chapter, but in no event shall the number exceed that allowed by the Colorado Revised Statutes and Article XVIII, Sections 14 or 16 of the Colorado Constitution.

- F. Except as otherwise provided in paragraph D of this Section, Marijuana Production in all Subject Zone Districts shall occur in an Enclosed Locked Structure which structure shall comply with the specific Zone District standards under all other provision of this Title 17 including but not limited to setbacks, height restrictions, and lot coverage.
- G. Any existing Enclosed Locked Structure where Marijuana Production is engaged shall comply with all other provisions of this Title 17, and any new Enclosed Locked Structure shall obtain zoning authorization from the Department of Planning and Development and may be required to obtain a building permit from Pueblo Regional Building Department per paragraph D of Section 17.119.020.
- H. Marijuana Production shall meet the requirements of the Pueblo City-County Health Department Regulations, if applicable.
- I. Marijuana Production shall not occur in a common area associated with the property.
- J. Marijuana Production shall be in a secure area within the Enclosed Locked Structure and accessible only to the person(s) engaged in such activities, except that a person(s) assisting in such activities may have access to the plants provided they are expressly authorized by the person(s) who have lawful possession of the property/dwelling unit. Secure areas shall be locked to prevent access by children, visitors, casual passerby, vandals, or anyone not authorized to possess Marijuana. In the case of greenhouses and accessory buildings, nothing shall prevent a secure area from consisting of an entire Enclosed Locked Structure.
- K. 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:
 - 1. Having visibility of plants from the exterior of the structure(s) or any other common visual observation, including any form of signage;
 - 2. Emitting unusual odors, smells, fragrances, or other olfactory stimulus;
 - 3. Emitting light pollution, glare, or brightness that disturbs the repose of another;
 - 4. Causing unreasonable noise, vibration; and
 - 5. Causing undue vehicular or foot traffic, including excess parking within the Residential Zone Districts as defined herein.
- L. Waste product from the Marijuana Production shall be disposed of properly so as not to be at risk for consumption by others and so as not to attract rodents, pests, and public curiosity.
- M. Marijuana Production under this Chapter shall not be for the use of any licensed Marijuana Establishment, as that term is defined in the Colorado Marijuana Code.
- N. It shall be unlawful for any person who is not licensed under Article 43.3 or Article 43.4 of Title 12, C.R.S. to sell Marijuana. A caregiver may be reimbursed for the costs involved in Marijuana Production pursuant to C.R.S. 25-1.5-106.
- O. Extraction shall be permitted only as follows:

1. Extraction shall comply with the C.R.S. 18-18-406.6 and any other applicable State law or regulation.
2. 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 all applicable State and local laws, and all rules and regulations promulgated thereunder is permitted only if:
 - (i) such production is approved by the appropriate Fire Official, if such approval is required by the Official; and
 - (ii) the production of Marijuana concentrate is done without the application of any heat from a fuel fired or electrified source and uses no more than sixteen (16) ounces of alcohol or ethanol during each extraction process and there are no hazardous chemicals, gases, explosives, flammable materials or similarly dangerous substances have been used in any pipes, tanks or other equipment on the property.
3. Water Based Extraction, Food Based Extraction, and Alcohol Based Extraction are the only forms of Extraction permitted in Residential Zone Districts and Agricultural Zone Districts. These forms of Extraction shall comply with the Fire Code from the appropriate Fire Official.
4. If the Extraction of Marijuana is to be performed in the Residential, Agricultural or Industrial Zone Districts, the person or entity engaging in such extraction shall provide proper documentation of the process for the Extraction of Marijuana to all the Departments listed in subsection 17.119.040 P. 2. and 3. above. 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 Department of Planning and Development at the same time as the Caregiver provides the Department the State Licensing Authority registration certificate/document.

17.119.050 Administration

- A. Marijuana Production prior to the adoption of this Text Amendment No. 2014-004 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 Text Amendment No. 2014-004.
- B. The effective date of Text Amendment No. 2014-004 is November 1, 2015. However, Subsections B, C, and D of Section 17.119.040 shall be effective January 1, 2016.
- C. As of the effective date of Text Amendment No. 2014-004, all Marijuana Production must be in compliance with this Text Amendment No. 2014-004.

17.119.060 Inspection

- A. In the event of a written complaint or at the request of an agent or employee of Pueblo County, the Land Use Inspector may request verbal permission from the property owner or tenant to access the property and any structure(s) on the property during reasonable hours for the purpose of conducting a physical inspection of the property to determine compliance with the requirements of this Chapter. However, the Land Use Inspector shall not enter upon any property to conduct such an inspection without either the permission of the property owner or tenant.

- B. If permission is denied to the Land Use Inspector to inspect the property and the Land Use Inspector has reasonable belief there is imminent danger to public health, safety, or welfare or non-compliance with this Chapter, the Land Use Inspector shall have the authority to request the Pueblo County Sheriff's Office, and/or Pueblo Regional Building Department, and/or Pueblo City-County Health Department to conduct an inspection of the property within their authoritative powers.

- C. If such inspection reveals non-compliance with this Chapter, the Land Use Inspector shall pursue the non-compliance as a zoning violation through the proper authority and action as cited in the Pueblo County Code, Title 17 Land Use, Division I. Zoning in the most expeditious time allowed per the Pueblo County Code in as much as there shall be compliance within the allowed time frame with no allowed extensions.

**APPENDIX I:
CO Division of Water
Resources Water
Supply Letter**



COLORADO
Division of Water Resources
 Department of Natural Resources

Water Division 2 - Main Office
 310 E. Abriendo Ave, Suite B
 Pueblo, CO 81004

July 9, 2014

Ms. Joan Armstrong
 Planning Director
 Pueblo County Planning and Zoning
 229 W. 12th Street
 Pueblo, CO 81003-2810

SUBJECT: Marijuana Grow Operations Proof of Water Source Applicant Considerations

Dear Ms. Armstrong,

In order to facilitate verification of a legal water source for marijuana grow operations please advise the applicants to consider the following water classifications before beginning the process.

What is your source of water?

1. Well water
 - a. Existing Permit
 - i. Type of use
 1. Does it cover irrigation uses?
 2. Does it cover municipal/comercial uses?
 - ii. Place of use: Please provide a map and address or location.
 - iii. What is the permit number? _____
 - iv. What is the court decree case number _____ (If applicable)
 - v. Please provide written approval from co-owners (If applicable)
 - vi. Does it require an augmentation plan?
 - a. Written approval from the augmentation water supplier (If applicable)
 - b. Proposed Permit
 - i. New uses generally require a substitute water supply plan and or court approved plan for augmentation. (Please see the links below for more information. If you intend to pursure this avenue, please provide the following information.
 1. Name of water attorney _____
 - a. Written agreement to represent the industry.
 2. Name of water engineer _____
 - a. Written agreement to represent the industry.



2. Surface Water
 - a. Name of ditch right
 - i. Type of use
 1. Does it cover irrigation uses?
 2. Does it cover municipal/comercial uses?
 - ii. What is the place of use? Provide a map and address or location.
 - iii. What is the priority?
 1. Does it require an augmentation plan?
 - a. Written approval from the augmentation supplier (If applicable)
 - iv. Is it part of a ditch company?
 1. Written approval from the ditch company?
3. Hauled Water
 - a. Applicant must identify a water supplier with a legal source of water
 - i. Written approval from the supplier to provide water to the applicant must be obtained and on file with the county.
 1. The supplier must provide accounting to DWR for the deliveries made to the applicant.
 - ii. Applicant must install a cistern
 1. Report cistern capacity to DWR
 2. Install in line measurement device from cistern discharge to grow operation building facility that meets the criteria outlined in *The Amended Use and Measurement Rules for the Arkansas Basin*.
 3. Report monthly diversions to DWR and include copies of receipts from the water provider.
4. Municipal Supply
 - a. Written approval from municipal supplier.

If you have questions regarding your source of water please familiarize your self with our website: www.water.state.co.us

There you will find information regarding frequently asked questions pertaining to marijuana grow operations <http://water.state.co.us/DWRIPub/Documents/Amendment%2064-Flyer2014-Final.pdf> as well as basic explanations about obtaining a well permit <http://water.state.co.us/DWRIPub/Documents/wellpermitguide.pdf>

If you have further questions please feel free to contact our office at (719) 542-3368 or to make an appointment.



Ms. Joan Armstrong
July 9, 2014
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Sincerely,

Rachel Zancanella, P.E.
Water Resources Engineer



