

**\*Code ListServ\***

DC-14-0001 Marijuana Uses  
Revised Draft Land Use Code Amendments  
Last Updated: May 28, 2014

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*Land Use staff's proposed changes to Boulder County Land Use Code marijuana regulations.*

**Article 4-512 Retail and Personal Service Uses**

**I. ~~Medical Marijuana Center Establishment~~**

1. Definition: A licensed business or a business with a pending license application that grows, sells, and/or distributes medical and/or retail marijuana as authorized ~~under~~ pursuant to Section 14 and Section 16 of Article ~~XVII~~ XVIII of the Colorado Constitution and other applicable state law. This use includes the following:
  - a. ~~Medical Marijuana retail-center store;~~
  - b. ~~Medical-Marijuana infused-products manufacturing;~~
  - c. Optional premises cultivation or retail marijuana cultivation facility; ~~and~~
  - d. ~~Medical Marijuana testing and/or research facilities.~~
2. Districts Permitted: By right in T, B, C, LI, and GI.
3. Parking Requirements:
  - a. One space per 200 square feet of floor area used for office, sales, or personal service operations.
  - b. One space per 1,000 square feet of floor area used for growing cultivating warehousing, or storage operations. and research and/or testing facilities.
4. Loading requirements: One loading space for 10,000 or more square feet of floor area.
5. Additional Provisions:
  - a. This use must obtain and maintain all necessary state and local permits. Regardless of when they are established, businesses operating for the purpose of cultivation, manufacture, or sale of ~~medical~~ marijuana or ~~medical~~ marijuana-infused products, as defined in ~~Colorado House Bill 10-1284~~ the Colorado Medical Marijuana Code, C.R.S. §12-43.3-101, et. seq., and the Colorado Retail Marijuana Code, C.R.S. §12-43.4-101, et. seq. [“the Codes”], are and will be subject to the provisions and limitations stated in ~~H.B. 12-1284~~ those Codes. These provisions and limitations include those in the legislation, and any state and County requirements promulgated under the legislation. Such businesses or uses, even if allowed under this Section 4-512.I or prior provisions of this Code, are subject to termination if they cannot meet the requirements of, or legally operate ~~under~~ pursuant to, ~~H.B. 10-1284~~ the Codes.
  - b. This use may include the accessory sale of products containing ~~medical~~ marijuana to the extent authorized by applicable state law.
  - c. One single-family dwelling to house the owner or manager of the ~~Medical Marijuana Center Establishment~~ and ~~their~~ his or her family will be considered customary and incidental as part of this use, to the extent authorized by state law.
  - d. Except in the LI and GI Zoning Districts, this use shall not be located within 500 feet of another ~~Medical Marijuana Center Establishment~~ (including a ~~Center an~~ Marijuana Establishment in the unincorporated County or a substantially similar

facility in an adjacent municipality), as measured from the closest point of the subject parcel lines.

- e. A ~~Medical Marijuana Retail Store Center~~ shall not be located within 1,000 feet of an alcohol or drug treatment facility, a licensed child care facility, or an educational facility with students below the college grade level (including facilities in the unincorporated County or substantially similar facilities in an adjacent municipality), as measured from the closest point of the subject parcel lines.
- f. ~~Medical Marijuana~~-infused products manufacturing, optional premises cultivation, and ~~medical~~ marijuana testing and/or research facilities, are not subject to the above setback requirement in Subsection e., provided there is not an associated ~~dispensary-marijuana store~~.
- g. A change of use from an existing Retail or Personal Facility Use under Art. 4-512.M. of this Code, or from an existing Professional Office Use under Art. 4-509.A. of this Code, to a ~~Medical Marijuana Center Establishment~~ allowed under this Article 4-512.I, shall not require Site Plan Review approval under Article 4-802.A. of this Code.
- h. Marijuana establishments shall not have a drive-through service.

(Use Tables 4-512 Retail and Personal Service Uses change "I" to Marijuana Establishment)

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#### **4-108 Transitional (T) District**

- A. Purpose: Areas containing both a variety of residential uses and a limited number of business uses which are compatible with residential development.
- B. Principal Uses Permitted
  - 12. Retail and Personal Service Uses (see 4-512)
    - a. Building Material or Garden Store (S)
    - b. Day Care Center (S)
    - c. Eating or Drinking Place, with drive through (S)
    - d. Eating or Drinking Place, without drive through (S)
    - e. ~~Medical Marijuana Center Establishment~~
    - f. Mortuary
    - g. Recycling Collection Center, Small (I)
    - h. Veterinary Clinic, without outdoor holding facilities

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#### **4-109 Business (B) District**

- A. Purpose: Areas for the development of restricted retail and business uses which have minimal exterior impact on surrounding properties.
- B. Principal Uses Permitted
  - 12. Retail and Personal Service Uses (see 4-512)
    - a. Bank
    - b. Convenience Store
    - c. Day Care Center
    - d. Emergency Care Facility

- e. Eating or Drinking Place, with drive through (S)
  - f. Eating or Drinking Place, without drive through
  - g. Indoor Theater
  - h. ~~Medical Marijuana Center~~ Establishment
  - i. Mortuary
  - j. Recycling Collection Center, small (I)
  - k. Retail or Personal Service Facility
  - l. Vehicle Service Center
  - m. Veterinary Clinic, with outdoor holding facilities
  - n. Veterinary Clinic, without outdoor holding facilities
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#### **4-110 Commercial (C) District**

- A. Purpose: Areas for the development of commercial, business, retail, and/or service uses
  - B. Principal Uses Permitted
    - 12. Retail and Personal Service Uses (see 4-512)
      - a. Bank
      - b. Building Material and Garden Store
      - c. Convenience Store
      - d. Day Care Center
      - e. Emergency Care Facility
      - f. Eating or Drinking Place, with drive through (S)
      - g. Eating or Drinking Place, without drive through
      - h. Indoor Theater
      - i. ~~Medical Marijuana Center~~ Establishment
      - j. Mortuary
      - k. Outdoor Theater
      - l. Recycling Collection Center, Small
      - m. Retail or Personal Service Facility
      - n. Vehicle Service Center
      - o. Veterinary Clinic, with outdoor holding facilities
      - p. Veterinary Clinic, without outdoor holding facilities
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#### **4-111 Light Industrial (LI) District**

- A. Purpose: Areas for the development of research, light industrial, warehouse, and/or distribution centers.
  - B. Principal Uses Permitted
    - 12. Retail and Personal Service Uses (see 4-512)
      - a. Day Care Center
      - b. Emergency Care Facility
      - c. ~~Medical Marijuana Center~~ Establishment
      - d. Mortuary
      - e. Recycling Collection Center, Small
      - f. Veterinary Clinic, without outdoor holding facilities
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#### **4-112 General Industrial (GI) District**

- A. Purpose: Areas for the development of general industrial, manufacturing, commercial, and/or retail uses.
  - B. Principal Uses Permitted
    - 12. Retail and Personal Service Uses (see-4-512)
      - a. Bank
      - b. Building Materials or Garden Store
      - c. Convenience Store
      - d. Day Care Center
      - e. Emergency Care Facility
      - f. Eating or Drinking Place, with drive through (S)
      - g. Eating or Drinking Place, without drive through
      - h. Indoor Theater
      - i. ~~Medical Marijuana Center~~ Establishment
      - j. Mortuary
      - k. Outdoor Theater
      - l. Recycling Collection Center, Small
      - m. Retail or Personal Service Facility
      - n. Vehicle Service Center
      - o. Veterinary Clinic, with outdoor holding facilities
      - p. Veterinary Clinic, without outdoor holding facilities
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#### **Article 4-516 Accessory Uses**

An accessory use must be a use customarily incidental to and on the same parcel as the main use. A use listed in 4-500 may be an accessory use if the Director determines that the use is customarily incidental to a main use. Except as provided in this article, an accessory use must comply with all regulations applicable to the main use.

#### **Q. Home Occupation**

- 1. Definition: A home occupation shall mean an accessory use consisting of a vocational activity conducted inside a dwelling unit or its accessory structures, and used only by the individuals who reside therein and one employee, provided that the home occupation:
  - a. does not result in noise or vibration, light, odor, dust, smoke, or other air pollution noticeable at or beyond the property line,
  - b. includes only the incidental sale of stocks, supplies, or products,
  - c. is clearly subordinate to the use of the lot for dwelling purposes and does not change the character of the lot,
  - d. does not include the outside storage of goods, materials, or equipment,
  - e. has signage limited to a nonilluminated identification sign two square feet or less in size,
  - f. does not exceed one-half the total floor area of the dwelling including activities carried out in an accessory structure, with the exception of child care which may exceed this limit,
  - g. does not produce traffic volumes exceeding that produced by the dwelling unit by more than 16 average daily trips or a maximum of 30 trips during any 24 hour period,
  - h. does not include nursing homes, restaurants, vehicle repair businesses, or boarding houses, and

- i. ~~does not include operations conducted within a dwelling unit that grow medical marijuana, or prepare medical marijuana-infused products, for sale to Medical Marijuana Centers Establishments or other medical-marijuana related businesses. Medical marijuana operations in dwelling units shall be confined to residents growing their own medical marijuana or preparing their own infused products, and to individual primary caregivers growing medical marijuana or preparing infused products for their registered patients, as authorized under state medical marijuana law.~~
- 2. Districts Permitted: By right in all districts
- 3. Parking Requirements: One off-street space
- 4. Loading Requirements: None
- 5. Additional Provisions:
  - a. In subdivisions, no more than one vehicle associated with the use, registered as a passenger vehicle, light truck, recreational truck, or farm truck may be parked outside on the property.
  - b. The number or type of registration
  - c. Medical marijuana operations as a home occupation shall be limited to individual primary caregivers growing medical marijuana or preparing infused products for their registered patients, as authorized under state medical marijuana law.
  - d. Medical marijuana caregiver activities cannot exceed 100 sq. ft. of total residential floor area, including areas carried out in an accessory structure.
  - e. Use of compressed, flammable gas as a solvent in the extraction of THC or other cannabinoids is prohibited.

R. Personal Marijuana Cultivation and Marijuana Product Manufacturing

- 1. Definition: Cultivation of marijuana or manufacture of marijuana products/by-products, not for the purpose of sale or profit, primarily for the people living on the parcel.
- 2. Districts permitted: By right in all districts.
- 3. Parking Requirements: none
- 4. Loading Requirements: none
- 5. Additional provisions:
  - a. Personal marijuana cultivation and marijuana product manufacturing activities cannot exceed 100 sq. ft. of total residential floor area, including areas carried out in an accessory structure.
  - b. Cultivation operations must obtain all required permits under the Boulder County Building Code, including any electrical permits necessitated by the operation of grow lights.
  - c. Use of compressed, flammable gas as a solvent in the extraction of THC or other cannabinoids is prohibited.
  - d. Marijuana cultivation and marijuana product manufacturing must be accessory to a residential use.

#### **4-802 Applicability and Scope of the Site Plan Review Process for Development**

- A. Site Plan Review shall be required for (unless not required or waived pursuant to sections B and C below):
1. Any development requiring a building permit on vacant parcels in unincorporated Boulder County
  2. Any increase in residential floor area which results in a total residential floor area greater than 125% of the median residential floor area for the defined neighborhood in which the subject parcel is located. In determining if the proposed development is greater than 125% of the residential median floor area, any demolition and rebuilding of any existing residential structure or any portions thereof, shall be counted toward the threshold.
  3. Any cumulative increase in floor area of more than 1,000 square feet on a parcel over that existing as of September 8, 1998
    - a. In calculating this 1,000 square foot threshold, any demolition and rebuilding of any existing structure or any portions thereof, shall be counted toward the threshold
    - b. Any floor area not legally existing as of September 8, 1998 shall be counted toward the threshold
    - c. Applies to all principal and accessory structure(s)
  4. New structures of any size requiring a building permit when the site is located within a Natural Landmark or Natural Area as described in the Environmental Resources Element of the Comprehensive Plan and shown on the Zoning District Maps of Boulder County
  5. New structures 500 square feet or more in the 250' buffer associated with a Natural Landmark or Natural Area, as described in the Environmental Resources Element of the Comprehensive Plan and shown on the Zoning District Maps of Boulder County
  6. New structures or additions to existing structures of any size on property over which a conservation easement has been granted
  7. Development occurring in a Rural Community District
  8. Any development or earthwork requiring a floodplain development permit
  9. Any grading permit for over 50 cubic yards of earthwork (including grading associated with an access permit)
  10. A change of use of a parcel, except to residential, or except from an existing Retail or Personal Service Facility under Article 4-512.M. of this Code or from an existing Professional Office under Article 4-509.A. of this Code to a ~~Medical Marijuana Center Establishment~~ under Article 4-512. of this Code.
  11. A commercial telecommunications facility utilizing an existing structure and meeting the height requirements of the district in which the facility is located
  12. A small wind-powered energy system.
  13. A small solar energy system as a principal use.
  14. Any proposal which is eligible to be waived from Site Plan Review, but for which a waiver was not granted
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#### **4-1202 Standards of Review**

- B. Requests for a Variance from the Provisions of this Code
1. The Board of Adjustment shall not grant a variance to this Code which allows:

- a. a use in a zoning district other than those as allowed in Section 4-100 of this Code;
- b. a variance to the minimum lot area requirements or maximum gross density;
- c. the alteration of any definition;
- d. a substantial modification to any planned unit development or special use allowed approved by the County Commissioners;
- e. any increase in the base flood level;
- f. a change in the height or yard requirements which could be obtained, or have been denied, through Special Review; or
- g. A decrease in the spacing requirements for ~~Medical Marijuana Centers~~ Establishments under the Additional Provisions of Article 4-512.G. of this Code.