



# City of Cañon City

Community Development Department  
 Planning & Zoning Division

## MARIJUANA CULTIVATION FOR PERSONAL USE

Marijuana can only be grown in a secure area within a detached single-family residence or in a detached accessory structure, like a garage or shed. Marijuana cannot be grown OUTSIDE

**Maximum number of plants:**

**Recreational:** If grown by or for a single person twenty-one (21) years of age or older, a maximum of six (6) plants may be grown by or for such ... if grown by or for multiple persons twenty-one (21) years of age or older residing in the same primary residence, a maximum of twelve (12) plants may be grown by or for such persons.

**Medical:** If grown by or for a single qualified patient who is authorized under state law to grow more than six (6) medical marijuana plants, a maximum of eight (8) plants may be grown. Otherwise, a single qualified patient may grow not more than six (6) medical marijuana plants. If grown by or for two or more patients occupying a single dwelling unit as their primary residence and at least one of those patients is authorized under state law to grow more than six (6) medical marijuana plants, a maximum of sixteen (16) medical marijuana plants may be grown. Otherwise, groups that include more than one patient, living in the same primary residence may not, as a group, grow more than twelve (12) medical marijuana plants.

If grown inside a single family dwelling unit:	If grown inside an accessory structure like a garage or shed:	ALL grows:
Grow area cannot be more than 100 sq. ft. and 10 feet in height  Grow area can't be in a kitchen, bathroom or a primary bedroom  No chemicals related to the grow can be stored in the dwelling unit	Must be permitted (application attached)  Can't be more than 100 s.f. and 10 feet in height  Must be 20 feet or more from a neighboring residence  Must have a firewall assembly that meets minimum building code requirements for residential structures  Must meet local zoning (including setbacks) codes	Must be secure  Must comply with electrical, plumbing, building and fire codes  No part of the grow can be within public view  High intensity lighting is prohibited unless inspected and approved by State electrical inspector and annually inspected by Cañon City Area Fire District  The use of compressed, flammable gas is prohibited  Proper ventilation and filtration to prevent odors is recommended

**Any violation of Chapter 17.34 constitutes a nuisance**

**Chapter 17.34**  
**MARIJUANA CULTIVATION FOR PERSONAL USE**

**17.34.010 Intent, authority, applicability and interpretation.**

- A. Intent. It is the intent of this chapter to prohibit and otherwise restrict certain land uses related to the cultivation, use and disposition of marijuana plants and products and, in furtherance of its intent, the City Council makes the following findings:
1. The Colorado Medical Marijuana Code, section 12-43.3-101, C.R.S., somewhat clarifies Colorado law regarding the scope and extent of Article XVIII, § 14 of the Colorado Constitution but does not adequately address issues related to cultivation, use, processing or disposition of medical marijuana by patients and caregivers;
  2. Rules regarding the cultivation and use of medical marijuana by patients and caregivers have been adopted and are periodically amended by the Colorado Department of Public Health and Environment but do not adequately or completely foreclose opportunities for serious abuses by some persons who claim a medical need for excessive numbers of marijuana plants, thus making the adoption of this chapter necessary;
  3. The Colorado Medical Marijuana Code specifically authorizes a municipality to either prohibit or license and otherwise regulate the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers' licenses (collectively called "medical marijuana facilities" in this code) based on local government police powers through zoning and other laws governing and protecting the health, safety and welfare of visitors to and inhabitants of the City, but provides little guidance and almost no regulation as to the cultivation of medical marijuana by unlicensed persons, including those who are patients and/or caregivers (see sections 12-43.3-106, 301 and 305(3), C.R.S.);
  4. Article XVIII, § 16 of the Colorado Constitution and the Colorado Retail Marijuana Code specifically authorize a municipality to ban or regulate (consistent with other requirements of state and local law) with respect to the establishment and operation of retail marijuana establishments, including "retail marijuana cultivation facilities", "retail marijuana product manufacturing facilities", "retail marijuana testing facilities", and "retail marijuana stores" through the enactment of ordinances but does not address in any meaningful way cultivation of medical marijuana by unlicensed persons, including patients and caregivers;
  5. The voters of the City of Cañon City in November 2014, decided to ban all forms of retail marijuana establishments from the City; and
  6. Based on the expressed wishes of the City's voters and the implications that may be drawn therefrom, and after careful consideration of applicable Colorado laws, and after having considered potential benefits and impacts associated with the cultivation of large numbers of marijuana plants (for medical use or for personal use), including secondary effects and impacts upon neighbors and neighborhoods that are associated with the cultivation of marijuana plants, the cultivation of marijuana is hereby found to be a land use that may and probably will have an adverse effect on the health, safety and welfare of many inhabitants of the City (including most specifically those who reside adjacent or close to locations where large numbers of marijuana plants are cultivated by unlicensed persons) if such cultivation is not appropriately limited and otherwise effectively regulated to prevent or minimize such adverse impacts.
- B. Authority. The City's authority to adopt this chapter is found in: The Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code; article XVIII, sections 14 and 16 of the Colorado Constitution, the Local Government Land Use Control Enabling Act, section 29-20-101, C.R.S.;

section 31-23-101, C.R.S. (municipal zoning powers); sections 31-15-103, 31-15-401, C.R.S. (municipal police powers); section 31-15-501, C.R.S. (municipal authority to regulate businesses); and the home rule Charter of the City of Cañon City.

- C. Applicability. This chapter shall apply to all property within the City. To the extent that the City is required to allow the cultivation of medical marijuana or marijuana for personal use under state law, the rules and prohibitions set forth in Section 17.34.020 shall apply.
- D. Nothing in this chapter shall be interpreted to permit marijuana dispensaries, facilities or establishments of any kind otherwise prohibited by state law or by any provision of the Cañon City Municipal Code. If the Colorado Medical Marijuana Code, Article XVIII, § 14 of the Colorado Constitution, the Colorado Retail Marijuana Code, and/or Article XVIII, § 16 of the Colorado Constitution are declared unlawful in violation of federal law, nothing in the Cañon City Municipal Code shall be deemed to permit the cultivation, possession or use of marijuana for medical or any other purpose. Nothing in this ordinance shall be deemed to prevent the prosecution of offenses under the federal Controlled Substances Act occurring in the City of Cañon City.

#### **17.34.020 Prohibitions with respect to cultivation of marijuana by unlicensed persons.**

- A. It is unlawful for any person to grow marijuana for personal or medicinal use anywhere in the City other than in a secure area, within a detached single family residential property used as the cultivator's primary residence, garage or detached accessory structure under the ownership of the person cultivating the marijuana or with the written permission of the property owner, which permission may be withdrawn by the property owner in a subsequent written document delivered to the person cultivating the marijuana. Such delivery may be made by personal service or certified mail. (the terms "secure area" and "primary residence" are described in Subsection 17.08.010(C), CCMC).
- B. Restrictions on Numbers of Plants.
  - 1. If recreational marijuana is grown by or for a single person twenty-one (21) years of age or older, a maximum of six (6) plants may be grown by or for such person in a secure area at such person's primary residence and, if recreational marijuana is grown by or for multiple persons twenty-one (21) years of age or older residing in the same primary residence, a maximum of twelve (12) plants may be grown by or for such persons in a secure area at their primary residence.
  - 2. If medical marijuana is grown by or for a single qualified patient who is authorized under state law to grow more than six (6) medical marijuana plants, a maximum of eight (8) plants may be grown in a secure area at such patient's primary residence. Otherwise, a single qualified patient may grow not more than six (6) medical marijuana plants in a secure area at such patient's primary residence. If medical marijuana is grown by or for two or more patients occupying a single dwelling unit as their primary residence and at least one of those patients is authorized under state law to grow more than six (6) medical marijuana plants, a maximum of sixteen (16) medical marijuana plants may be grown in a secure area at their primary residence. Otherwise, groups that include more than one patient, living in the same primary residence may not, as a group, grow more than twelve (12) medical marijuana plants in a secure area.
  - 3. The foregoing limits will apply regardless of the number of qualified patients, caregivers or persons otherwise allowed to possess and grow marijuana for personal use or medical use residing in the same dwelling unit as their primary residence.

4. It is unlawful for any person or group of persons to cultivate more plants than are allowed in this Subsection C unless such person is licensed by the state under the Colorado Medical Marijuana Code and by the City under Chapter 5.56 of the Cañon City Municipal Code.
- C. It is unlawful for any person to cultivate marijuana inside a detached residential dwelling unit in an area exceeding one hundred (100) square feet and exceeding a height of ten (10) feet.
  - D. 1) It is unlawful for any person to cultivate marijuana in a detached accessory structure that is situated within twenty (20) feet of any neighboring residential dwelling unit or if such structure is greater than one hundred (100) square feet in area or more than ten (10) feet in height. 2) It is unlawful for any person to cultivate marijuana within an attached or detached garage in an area that is greater than one hundred (100) square feet. 3) Any grow area within a garage or accessory structure used for the cultivation of marijuana, including all walls, doors, and the roof, shall be constructed with a firewall assembly of green board meeting the minimum building code requirements for residential structures and include material strong enough to prevent entry except through an open door. 4) Other provisions of this chapter notwithstanding, a permit issued by the City (for which no fee shall be charged) is required for an accessory structure used for growing marijuana. 5) Any accessory structure used for growing marijuana plants must meet all applicable setback requirements, including but not necessarily limited to the setback required in this Subsection D.
  - E. All high intensity discharge (HID) lighting, including but not limited to Mercury-vapor lamps, Metal-halide (MH) lamps, Ceramic MH lamps, Sodium-vapor lamps, high-pressure Sodium (HPS) lamps and Xenon short-arc lamps, are prohibited with respect to the indoor cultivation of marijuana unless the electrical system to which such lamps are connected has been inspected and approved by a qualified state electrical inspector. Thereafter, as a condition to the continued use of HID lighting, the Cañon City Area Fire Protection District shall be invited by the marijuana cultivator, no less often than once annually, to inspect such electrical system and associated HID lighting to determine whether such system and lighting are set up and operated in a manner that takes into account the reasonable safety needs of first responders in the event of a fire. The dates and outcomes of such inspections shall be documented in writing by the Cañon City Area Fire Protection District and made available to the marijuana cultivator and the City.
  - F. It is unlawful for any person to use compressed, flammable gas as a solvent in the extraction of THC or other cannabinoids in a residential setting. (This prohibition is authorized by section 9-7-113, C.R.S.)
  - G. It is unlawful for any person to use a kitchen, bathroom, or primary bedrooms for the cultivation of marijuana within a primary residence.
  - H. It is unlawful to cultivate marijuana in any structure without complying with applicable building and fire codes, applicable plumbing and electrical codes, and all applicable yard, bulk and other zoning requirements for the zone district within which the growing occurs, including but not limited to those specifying maximum lot coverage, setback and height requirements.
  - I. It is recommended that any marijuana cultivation area within a residence or garage shall include a ventilation and filtration system designed to ensure that odors from the cultivation are not detectable beyond the property line for detached single-family residences, and designed to prevent mold and moisture and otherwise protect the health and safety of persons residing in the residence.

- J. It is unlawful for any person to store chemicals used for marijuana cultivation inside of the habitable areas of a residence.
- K. It is unlawful for any person to conduct or permit the conduct of any marijuana cultivation activity that adversely affects the health or safety of the nearby residents by creating dust, glare, heat, noise, noxious gasses, noxious odors, traffic, vibration, or other similar impacts.
- L. It is unlawful for any person to conduct any marijuana cultivation or processing activity in a manner that involves the use or storage of chemicals, products, wastes or processes in a manner that is hazardous to the health or safety of nearby residents or to the health and safety of the occupants of the place where such marijuana is cultivated or processed.
- M. It is unlawful for any person to grow marijuana plants at any place where such growing plants are visible from ground level on neighboring properties or from ground level on public rights-of-way or are otherwise grown in public view.
- N. Any violation enumerated in this Section 17.34.020 shall constitute a public nuisance that may be dealt with and abated in accordance with the provisions of Chapter 1.18 and/or the provisions of Chapter 8.38 of the Cañon City Municipal Code in addition to the provisions of Chapter 17 of the Cañon City Municipal Code.

#### **17.34.030 Penalties**

- A. Any person who violates any provision enumerated in Section 17.34.020 (excluding Subsections I and N) is guilty of a misdemeanor and upon conviction thereof shall be punished by a mandatory minimum fine that shall not be less than \$500.00 (five hundred dollars) nor more than the maximum fine provided for at Section 1.28.010, CCMC.
- B. Any twenty-four (24) hour period during which a violation of any such provision of Section 17.34.020 continues may be charged and, upon conviction, punished as a separate offense.
- C. In determining whether to impose a fine in an amount greater than the mandatory minimum provided for in Subsection A, the court shall take into account, whenever applicable, the number of marijuana plants being grown that are in excess of the number of plants, if any, that the convicted violator is authorized to cultivate under the provisions of Section 17.34.020 and/or the area within which such plants are grown is in excess of one hundred (100) square feet. Fines in excess of the mandatory minimum are recommended when such violations involve plant counts and grow areas that exceed the maximum number of plants and maximum grow areas permitted under Section 17.34.020.



# City of Cañon City

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Planning & Zoning Division

## ACCESSORY STRUCTURE USED FOR GROWING MARIJUANA APPLICATION FORM

SITE ADDRESS:	
LEGAL DESCRIPTION OF PROPERTY:	
DATE SUBMITTED:	APPLICATION FEE: NO FEE

A permit is required for an accessory structure used for growing marijuana (Section 17.34.020.D). See all of Section 17.34 of the Municipal Code for additional information about growing marijuana for personal use.

**Submittal Requirements:**

- This completed application, and,
- A site plan drawn to scale showing:
  - the locations of proposed construction (if applicable) and existing structures:
  - square footage area of each building (including sheds, garages)
  - lot dimensions and lot square footage.
  - streets, alleys and easements
  - setbacks of accessory structure from all lot lines

Applicant's Name:	
Address:	
Phone:	Email:
Applicant's signature:	
Relation to Property Owner:	

If Site is not owner-occupied, property owner must sign below authorizing this application:

Property Owner Name	Property Owner Signature
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For Office Use Only	
Application Received _____	Disposition: _____
Application Reviewed by: _____	_____