

5.6.2.1 The raising, harvesting, producing, or keeping of plants for personal, non-commercial use is considered gardening. This use does not qualify as an agricultural use for purposes of property tax calculations or building permit exemptions.

5.6.2.2 The constitutional provisions for both medical and personal recreational marijuana provide protections for personal marijuana cultivation (home grows), but these provisions are silent on the question of time, place, and manner where marijuana plants may be grown. To strike a balance between the rights of Archuleta County citizens who wish to grow marijuana for their personal recreational or medical use and Medical Marijuana Caregivers (“caregiver medical use”), and the rights of all others, the following common sense standards and plant count limits are to be maintained. This use does not qualify as an agricultural use for purposes of property tax calculations or building permit exemptions.

(1) Plant Count Limits. The purpose of setting plant count limits applicable in all zoning districts is to set reasonable limits on unlicensed, non-regulated marijuana cultivation, as is consistent with the authority provided in H.B. 17-1220, effective January 1, 2018, to stop or reduce the diversion of legal marijuana to the illegal market.

- a. There shall be no personal recreational or personal/caregiver medical marijuana cultivation allowed in Archuleta County on unoccupied parcels or parcels that do not contain a legal dwelling, regardless of zoning district.
- b. Each individual must reside year-round (12 months) on any parcel where they cultivate marijuana for personal recreational or personal/caregiver medical use.
- c. Not more than six (6) marijuana plants per adult shall be cultivated for *personal recreational use* at any time, in any zoning district, with no more than twelve (12) marijuana plants per parcel.
- d. Not more than twelve (12) marijuana plants per adult with a State issued medical marijuana card shall be cultivated per occupied parcel for *personal medical use* in any zoning district.
- e. Medical Marijuana Primary Caregivers who are registered with the Colorado licensing authority and the Department of Revenue may cultivate not more than twelve (12) marijuana plants for one patient per occupied parcel with a State issued medical marijuana card.
- f. More than twelve (12) marijuana plants cultivated for any personal/caregiver medical use on any single occupied parcel in any zoning district shall be prohibited without a Use-By-Right review and approval from the County Planning Department.
- g. No parcel in Archuleta County may be used to simultaneously cultivate *personal recreational* marijuana and *personal/caregiver medical* marijuana.

(2) Standards for personal recreational and personal medical marijuana cultivation. Because of the potential for causing adverse impacts on neighboring parcels, the following standards shall apply to cultivation of marijuana for personal recreational and personal medical use.

- a. Cultivation must be conducted in an enclosed, locked building, with plants screened from public view. Plastic sheeting is not sufficient enclosure for any marijuana cultivation.
- b. Cultivation must meet a setback of fifty (50) feet from all property lines of a parcel, one hundred (100) feet from the Ordinary High Water Mark for any body of water, and one hundred (100) feet from any Special Flood Hazard Area (SFHA) or designated wetlands.
- c. Medical Marijuana Primary Caregiver cultivation facilities shall follow all health and safety requirements of Archuleta County marijuana licensing ordinances.
- d. Medical Marijuana Primary Caregiver operations shall comply with the Industrial Performance standards in Sec. 5.4.2, including sound, vibration, emissions (including odor), outdoor storage, and water pollution. Any extraction must follow requirements of Colorado statutes.

(3) Marijuana operations and activities are expressly prohibited as a Home Occupation.

(4) Persons who cultivate personal recreational and/or personal medical marijuana in excess of the plant count limits set forth in these Regulations, are subject to criminal prosecution for violation of §18-18-406(3)(a)(I)(II), C.R.S., as it may be amended in future, or under any other applicable statute. This marijuana plant count limitation requirement may be enforced by the Archuleta County Sheriff's Office and may be criminally prosecuted.

5.6.2.3 The following chart identifies limitations on the number and type of animals permitted in each zoning district.