

SECTION 5 – DEVELOPMENT STANDARDS

5.1 SUBDIVISION DESIGN STANDARDS

5.2 ENVIRONMENTAL STANDARDS

5.2.1 Preservation of Surface Water Resources

5.2.2 Preservation of Natural Features and Resources

5.2.3 Mitigation of Natural Hazards

5.2.3.1 Steep Land:

- (1) Any structure **built upon** slopes of greater than 20% shall meet the “County Typical Foundation for Slopes” or require engineered foundation plans.
- (2) Slopes of 33.3% or greater shall not be **built upon** with habitable structures unless a geotechnical investigation and report proves no geologic hazards exist, such as excessive erosion, landslides, rock falls, collapsible soils, etc., or unless appropriate provisions identified in the report are incorporated into engineered foundation plans to eliminate or control the hazard(s).
- (3) Habitable structures **built adjacent** to slopes of 33.3% or greater must meet setbacks outlined in the Adopted Building Code, or as identified in a geotechnical investigation and report. Any roads, trails or driveways shall only be built in accordance with *Archuleta County Road and Bridge Design Standards*, except for purposes of forestry management or wildfire protection.

5.3 INFRASTRUCTURE STANDARDS

5.4 SITE DEVELOPMENT STANDARDS

5.5 PUBLIC ACCOMMODATIONS AND LODGING STANDARDS

5.6 SUPPLEMENTARY USE STANDARDS

5.6.1 Adult-Oriented Businesses

5.6.2 Gardening and Raising Animals as Accessory Uses

- 5.6.2.1** The raising, harvesting, producing, or keeping of plants (i.e. fruits, vegetables, marijuana, flowers, etc.) 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. Marijuana cultivation is the only form of gardening discussed in the following sections.

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 own recreational or medical use (“personal use”), Medical Marijuana Caregivers (“caregiver medical use”), and the rights of all others, the following common sense standards and marijuana 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) Marijuana Plant Count Limits.** The purpose of setting marijuana 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, to stop or reduce the diversion of legal marijuana to the illegal market. Additionally, marijuana cultivation on a large scale can have a significant impact on valuable and scarce natural resources. Marijuana Plant Count Limits are effective immediately upon the adoption of this section.
- a. There shall be no 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 full-time on any parcel where and while they cultivate marijuana for personal use or caregiver medical use.
 - c. Not more than six (6) marijuana plants per adult (21 years or older) shall be cultivated for personal use at any time, in any zoning district, with no more than twelve (12) marijuana plants per occupied parcel.
 - d. 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 with a State issued medical marijuana card, with a limit of twelve (12) plants per occupied parcel.
 - e. Requests to cultivate more than twelve (12) marijuana plants for personal medical or caregiver medical use on any single occupied parcel in any zoning district shall require, at no cost, Medical Marijuana Use-By-Right approval from the County Planning Department, not to exceed twenty-four (24) marijuana plants per parcel.
- (2) Standards for cultivation of marijuana for personal use and caregiver medical use.** Because of the potential for causing adverse impacts on neighboring parcels, the following standards shall apply to cultivation of marijuana for personal use and caregiver medical use and do not apply to licensed commercial marijuana operations. Standards in this section are effective October 1, 2022.
- a. Marijuana cultivation must be conducted in an enclosed, locked, space.
 - b. Marijuana plants must be shielded from public view.
 - c. Marijuana cultivation must meet all property setbacks and a setback of 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. As with all setbacks, a property owner may seek a Variance per Section 2.4.

- d. Medical Marijuana Primary Caregiver cultivation facilities shall follow all health and safety requirements of Archuleta County marijuana licensing ordinances.
- e. 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) Per Section 1.4.1, this Regulation, including these sections, is enforced by the Director of Development through Code Enforcement Officers. Persons who cultivate marijuana plants in excess of the Marijuana Plant Count Limits set forth in these Regulations, may also be 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. Depending upon the scale of the violation, the marijuana plant count limit requirement may also 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.