

**HUERFANO COUNTY
 COMMERCIAL MARIJUANA
 REGULATIONS
 SECTION 18.00**



TABLE OF CONTENTS

<u>Section</u>	<u>Title</u>	<u>Page</u>
18.01	INTRODUCTION	18-1
18.01.01	Reserved	18-1
18.01.02	Authority of Article	18-1
18.01.03	Purpose of Article.....	18-1
18.02	GENERAL PROVISIONS	18-1
18.02.01	Reserved.....	18-1
18.02.02	Title	18-1
18.02.03	Definitions	18-1
18.02.04	County Excise Tax	18-1
18.03	CONDITIONAL USE PERMIT GENERAL REQUIREMENTS	18-2
18.04	PRIMARY CONDITIONAL USE REQUIREMENT AND CONDITIONS	18-3
18.04.01	Time of Application and Operation.....	18-3
18.04.02	Manner of Operation	18-3
18.05	SECONDARY CONDITIONAL USE REQUIREMENT AND CONDITIONS	18-4
18.06	FEES	18-5
18.07	DISCLAIMER.....	18-5
18.08	APPLICATION, NOTICE, AND HEARING.....	18-5
18.09	Conflicting Provisions	18-5

Huerfano County
Land Use Department
400 Main Street, Suite B
Walsenburg, Colorado 81089
719-738-1220 ext. 103

**HUERFANO COUNTY
COMMERCIAL MARIJUANA
REGULATIONS
SECTION 18.00**



TABLE OF CONTENTS

<u>Section</u>	<u>Title</u>	<u>Page</u>
-----------------------	---------------------	--------------------

This page left intentionally blank.

**HUERFANO COUNTY
COMMERCIAL MARIJUANA
REGULATIONS
SECTION 18.00**



18.01 INTRODUCTION

18.01.01 Reserved

18.01.02 Authority of Article

This article is authorized by Colorado Constitution Article XVIII, §§ Sections 14 & 16 and C.R.S. §§ 12-43.3-101 *et seq.*, 12-43.4-101 *et seq.*, and 39-28.8-101 *et seq.*

18.01.03 Purpose of Article

These Commercial Marijuana Regulations establish additional rules, procedures, criteria and conditions governing the time, place, manner, and fees for Commercial Marijuana Cultivation Facilities in the unincorporated area of Huerfano County. These Regulations may be amended by Resolution of the Board of County Commissioners.

18.02 GENERAL PROVISIONS

18.02.01 Reserved

18.02.02 The Title of this section shall be the Huerfano County Commercial Marijuana Regulations, and may be so cited.

18.02.03 Definitions

18.02.03.01 General definitions, terms and phrases are stated in Section 17.00 of the General Land Use regulations. This article adopts the definitions in Colorado Constitution Article XVIII, § § Sections 14 & 16, and C.R.S. §§ 12-43.3-101 *et seq.*, 12-43.4-101 *et seq.* and 39-28.8-101 *et seq.*

18.02.03.02 Facility Operator : A “person” as defined in Section 17.02 of the Huerfano County Land-Use Regulations that hold a current State license for the Commercial Cultivation of Marijuana and oversees the day to day operations of a Commercial Marijuana Cultivation Facility.

18.02.04 County Excise Tax: Pursuant to Huerfano County Board of County Commissioners’ Resolution 14-15 a local five percent (5%) excise tax has been approved by the Huerfano County voters. The excise tax is imposed upon the Facility Operator who shall pay the excise tax to the Huerfano County Treasurer upon the transferring of any commercial marijuana from said facility. Failure to complete with all provision of this resolution may result in revocation of the Conditional Use Permit.

**HUERFANO COUNTY
COMMERCIAL MARIJUANA
REGULATIONS
SECTION 18.00**



18.03 CONDITIONAL USE PERMIT GENERAL REQUIREMENTS

- 18.03.01 A Commercial Marijuana Cultivation Facility may be permitted only as a conditional use in Agricultural, Commercial, and Industrial Zoning Districts as defined in Section 1.00, *et seq.*
- 18.03.02 All Commercial Marijuana Cultivation Facility Owner(s) and Facility Operator(s) shall each have an approved Conditional Use Permit before commencing construction or operation of such facility. When said owner and operator is the same person or joint Applicants, only an approved Primary Conditional Use Permit is required, see 18.04. When the owner and operator have a relationship of landlord-tenant or lessor-lessee the Facility Operator shall be required to have an approved Secondary Conditional Use Permit, see 18.05.
- 18.03.03 Facility Operator(s) must have a conditionally approved Colorado Marijuana Cultivation License pursuant to Colorado Department of Revenue, Marijuana Enforcement Division 1 CCR 212-2 prior to submitting a Conditional Use Application.
- 18.03.04 Conditional Use Permits for Commercial Marijuana Cultivation Facilities or Facility Operator shall not be transferable. Any change of the identity of person or ownership listed as the applicant or combination thereof as defined in Section 17 of the Huerfano County Land-Use Regulations' requires a new Conditional Use Permit be approved by the Board of County Commissioners.
- 18.03.05 Each successful applicant for a conditional use permit shall provide to the County any reports deemed necessary by The Huerfano County Code Enforcement Officer, including but not limited to: books & records maintained pursuant to section 39-28.8-303 CRS, payroll records, water source and water consumption records.
- 18.03.06 Each applicant shall furnish a liability insurance policy satisfactory to the County, which includes the County, its Officers, Employees and Contractors as insured parties, and further indemnifies them against claims by other parties. Said policy shall be in place prior to the issuance of a certificate of occupancy or commencement of operations.
- 18.03.07 Each Applicant shall sign a waiver acknowledging that activities authorized by a CUP under this provision may constitute violation of Federal Law that issuance of CUP hereunder in no way excuses such violation, and may result in revocation of the CUP.
- 18.03.08 At a minimum fifty-one percent (51%) of a facility's annual payroll shall be attributable to employees or independent contractors permanently residing within Huerfano County

**HUERFANO COUNTY
COMMERCIAL MARIJUANA
REGULATIONS
SECTION 18.00**



Pursuant to section 18.03.04 as a condition of approval the operator agrees to furnish the following on or before January 15 of each year or other intervals to be determined by the County:

1. A list of all Huerfano County Employees noting the percentage of wages each received and their local address.
2. Confirmation of residency for each employee listed above. Verification shall be made from the Huerfano County Clerk's Records for either vehicle or voter registration, or verification acceptable to the Code Enforcement Officer.

18.04 PRIMARY CONDITIONAL USE REQUIREMENT AND CONDITIONS

In addition to the provisions applicable to Conditional Use Permits (CUP) as described in Section 18.03 and Section 1.06 of the Huerfano County Zoning Regulations, permits to operate a Commercial Marijuana Cultivation Facility shall be conditioned on the following, at the discretion of the Huerfano County Board of County Commissioners (BOCC):

18.04.01 Time of application and operation.

18.04.01.01 Annual Compliance Reviews shall be performed by the Board of County Commissioners, or its designees, no later than 30 days following the anniversary date of the issuance of a Commercial Building Permit.

18.04.01.02 All required construction permits must be in place within forty-five (45) days of CUP approval, construction must begin within 180 days of building permit approval, and all final building inspections must be performed within one year of the building permit approval.

18.04.01.03 Failure to meet any of the foregoing thresholds may result in revocation of the CUP.

18.04.02 Manner of Operation.

18.04.02.01 A Commercial Marijuana Cultivation Facility shall be in conformity with all applicable State statutes and regulations, as well as any terms and conditions of any state license issued to the facility, and the Commercial Building Standards adopted by Huerfano County at the time of application.

18.04.02.02 All commercial marijuana cultivation shall take place within a secured,

**HUERFANO COUNTY
COMMERCIAL MARIJUANA
REGULATIONS
SECTION 18.00**



locked and unobtrusive structure, meeting the commercial building standards adopted by Huerfano County at the time of construction.

18.04.02.03 When determined necessary by the Board of County Commissioners, Commercial Marijuana Facilities shall be equipped with an automatic fire sprinkler system, meeting the commercial building standards adopted by Huerfano County at the time of construction.

18.04.02.04 Proposed new facilities located within three and one half miles (3 ½) of a municipality boundary shall have an extraterritorial commercial water tap from said community. An approved contract with the municipality for said water tap must be included in the application at the time of the initial submittal or the application shall not be accepted. The water line must be permanently installed from the municipality to the facility prior to the issuing of a Certificate of Occupancy.

18.04.02.05 Any new facilities located more than three and one half miles (3 ½) of a municipality must demonstrate a physical, legal source of water approved by a Division 2 Engineer from the Colorado Division of Water Resources. Documentation of this requirement must be included in the application at the time of the initial submittal, or the application shall not be accepted.

18.04.02.06 All applications for commercial marijuana cultivation shall be sent to the Colorado Division of Water Resources, the appropriate Fire District, the Huerfano County Sheriff Department, and any other agency determined necessary by the Planning Commission for review. Any comments by these agencies should be returned to County Staff within twenty-one (21) days of receipt of the application.

18.05 SECONDARY CONDITIONAL USE REQUIREMENT AND CONDITIONS

In addition to the provisions described in Section 18.04 (.01), (.02), (.03), and (.04) the following information shall be submitted:

1. General Land Use Application
2. Operations & Business plan
3. Proof of Colorado Residency for a minimum of two (2) years.
4. Written consent from the primary Conditional Use Permit holder to act as the facility operator.
5. A signed contract with an approved water provider from an approved water source as determined by the Colorado Division of Water Resources. Said contract shall be for a minimum of five (5) years.

**HUERFANO COUNTY
COMMERCIAL MARIJUANA
REGULATIONS
SECTION 18.00**



18.06 FEES

18.06.01 Initial Review Fee: \$400, non-refundable.

Fee shall be paid when the application is submitted to the Land-Use Department.

18.06.02 Application Fee: \$1,300, non-refundable. Operating Fee: \$10,000

Fees shall be paid prior to the Planning Commission's completeness review.

This operating fee shall be utilized by Huerfano County to cover any costs to the County associated with the review and enforcement of said Conditional Use Application or Permit. This fee may include, but shall not be limited to, outside review agencies, staff inspections & enforcement, and professional services. Following the first or any subsequent annual compliance reviews, the Applicant may request a reimbursement of any unused operating fees.

18.07 DISCLAIMER

- a) Activities authorized by a CUP under this provision may constitute violation of Federal Law, and issuance of a CUP hereunder in no way excuses such violations.
- b) Issuance of this Conditional Use Permit does not constitute a bar to a civil action by neighbors, for example: in trespass or nuisance, or based on other activities authorized by this Permit.

18.08 APPLICATION, NOTICE, AND HEARING

Application, notice and hearing procedures shall be in accordance with Section 1.06.02 "Procedures for referral, review and action on an application for a conditional use approval."

18.09 CONFLICTING PROVISIONS

Should any provisions within these Commercial Marijuana Regulations conflict, with any other State or Local Regulations, the most restrictive applies, unless otherwise stipulated.