

Conditional Use procedure for Marijuana Establishments Building Department

Conditional Uses

Conditional uses are uses of property that are not allowed as a matter of right in a zone district but may be allowed if approved by the Board of Zoning and Architectural Review (the Board). They may be allowed after review in a public hearing process and conditions may be attached to the approval allowing the use in a particular location. Conditional uses by nature generally have greater impacts than permitted uses to the surrounding neighborhood, therefore, the public has the right to comment and affect the outcome of the Board's decision on the application. All marijuana establishments are reviewed as conditional uses in the zones in which they are allowed.

Marijuana Establishments

In order for a person to obtain a license from the Local Licensing Authority for a marijuana establishment: (1) (medical marijuana center, medical marijuana-infused product manufacturer, retail marijuana products manufacturer, retail marijuana store, retail marijuana testing facility or dual medical marijuana center and retail marijuana store) in the Commercial zone district (C); or (2) (medical marijuana center, retail marijuana store or dual medical marijuana center and retail marijuana store) in the B2 Business zone district, the person must first obtain a conditional use permit for the use on the subject premises from the Board.

The C zone is located on Belleview Avenue between 5th and 3rd Streets. The B2 zone is along Highway 135/Sixth Street from the south end of Town to the north end. Properties that may be used for the location or marijuana establishments in these zones are impacted generally by the required setbacks from parks and school facilities. A map of the areas is available from the Clerk's office.

Application

The completed application together with a \$320 fee, standard for all conditional use requests (provided no significant exterior alteration are proposed), must be submitted to the building department together with the Limited Power of Attorney (PA). All powers of attorney must be signed and notarized by the property owner before the subject application will be reviewed by the Town. The standard application is available in the building department or

can be found on-line at the Town's website townofcrestedbutte.com. Submittal dates for the application, scheduled work sessions termed Design Review Committee, and BOZAR meeting dates are available in the building department.

Review Criteria

The application must satisfy all the criteria located in Section 16-8-85. In addition, no marijuana establishment shall be allowed except in accordance with the following location requirements:

1. No marijuana establishment shall be located within 500 feet of any licensed child-care facility at the time of establishment of the dispensary.
2. No marijuana establishment shall be located within 500 feet of any educational institution or school, either public or private, at the time of establishment of the dispensary.
3. No marijuana establishment shall be located within 175 feet of any public park or playground at the time of establishment of the dispensary.
4. No marijuana establishment shall be located adjacent, as defined in Section 6-5-40, to a residential dwelling at the time of the establishment of the establishment. For medical marijuana centers, retail marijuana stores, dual facilities, and marijuana testing facilities the location may not be located next to a residence separated only by a vertical wall. For medical marijuana-infused product manufacturers/retail marijuana products manufacturers the location may not be next to a residence separated only by a vertical wall or a floor ceiling assembly.
5. No marijuana establishment shall be located in a movable or mobile structure.
6. No marijuana establishment may be located in a residential unit of any kind.
7. Marijuana establishments may not serve as home occupations as defined in Code Section 16-1-20.
8. Marijuana establishments must have unique physical addresses.
9. Marijuana establishment must be accessible from public rights or way.
10. Medical marijuana centers, retail marijuana stores, dual facilities and marijuana testing facilities may not be co-located with a restaurant or other use that serves or prepares foodstuff. Medical marijuana infused product manufacturers/retail marijuana products manufactures may not be co-located with a restaurant or other use that serves or prepares non-marijuana food items.
11. Marijuana establishments must prove that the electrical service is adequate for the use and that moisture, dust, vapors, fumes and odors are adequately confined and mitigated at the location.

For the public hearing, the Board will consider the Application that is site specific, and refer to the standard criteria for all conditional use proposals located in Section 16-8-30, and also 16-8-50 if in the C zone. *The Board will consider the following eight criteria taking into account comments from the public when deciding whether this use is appropriate in a specific location:*

1. Be compatible with the neighborhood context and size. When determining compatibility with the neighborhood, the Board shall consider at least the following:
 - a. Size
 - b. Density of buildings
 - c. Amount of open space
 - d. Scale
 - e. Snow storage
 - f. Snow removal
 - g. Landscaping
 - h. Similar land uses.
2. Be consistent with the objectives and purposes of this Chapter and the applicable zoning district.
3. Not create congestion, automotive or pedestrian safety problems or other traffic hazards.
4. Not create any significant noise, dust vapor fumes, odor, smoke, vibration, glare, light, trash removal, or waste disposal problems,
5. Not create significant adverse effects to public facilities, rights-of-way or utilities,
6. Not create significant adverse impacts on the uses of adjacent property.
7. Allow for adequate parking for the use or make payment in lieu if allowed in the zone.
8. The Board may consider if there is an undue concentration of such businesses within the area or Town.

At the conclusion of the hearing, the BOZAR may grant the use, deny the use or continue the hearing to a future date certain. If approval is granted for the appropriateness of the use the Board may impose conditions that must be met.