



COLORADO MARIJUANA HOME CULTIVATION LAWS

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Colorado residents are allowed to grow marijuana for personal or medical use under the Colorado Constitution. This *issue brief* provides an overview of Colorado's laws, at both the state and local level, related to the home growing of marijuana for medical and personal, nonmedical use.

Medical Marijuana

Constitutional provisions. The Colorado Constitution specifies that an individual patient may have no more than six marijuana plants, with three or fewer being mature, flowering plants. A patient, or his or her primary caregiver, may have more than six plants, commonly referred to as an "extended plant count," if it is medically necessary to address the patient's debilitating medical condition.¹

Medical marijuana patient laws. To be eligible to use medical marijuana, a physician must certify that the patient has a debilitating condition and that the patient may benefit from the use of medical marijuana. The patient must also be a Colorado resident and included on the confidential Medical Marijuana Registry in the Colorado Department of Public Health and Environment (CDHPE).

Beginning in 2017, medical marijuana patients may not cultivate more than 99 marijuana plants. Those patients who grow more than six marijuana plants are encouraged

to register with the Colorado Department of Revenue (DOR). This registry will include information about the location of the cultivation and the total number of plants the patient is authorized to cultivate.²

Medical marijuana caregiver laws. The Colorado Constitution defines a primary caregiver as a person who is 18 years of age or older who has significant responsibility for managing the well-being of a patient who has a debilitating medical condition.

Colorado law specifically outlines the role of a "cultivating caregiver" who is responsible for growing medical marijuana for one or more patients. An individual may be listed as a cultivating caregiver for no more than five medical marijuana patients, unless granted an exemption by CDPHE in exceptional circumstances, and a patient may only have one primary caregiver at any given time.³

Beginning in 2017, a primary caregiver may not cultivate more than 99 marijuana plants under any circumstance. A primary caregiver may not cultivate more than 36 plants unless he or she has one or more patients with an extended plant count based on medical necessity.⁴ The law also specifies that a primary caregiver may not delegate his or her authority to provide medical marijuana to a patient to any other person; may not engage others to assist in providing medical marijuana

¹Colo. Const. art. XVIII, § 14 (4).

²Section 25-1.5-106 (8.5), C.R.S.

³Section 25-1.5-106 (8), C.R.S.

⁴Section 25-1.5-106 (8.6), C.R.S.

to a patient; and may not join with any other caregivers for the purpose of medical marijuana cultivation.

Primary caregivers who cultivate medical marijuana for their patients must register with DOR. This registry must include information about the location of the cultivation, the registration number of each of the caregivers' patients, and any extended plant count numbers. Beginning in 2017, information from this registry must be provided to state and local law enforcement through the Colorado Crime Information Center.

Personal, Nonmedical Marijuana

Constitutional provisions. The Colorado Constitution allows any individual 21 years of age or older to grow no more than six marijuana plants, with three or fewer being mature, flowering plants, for personal use. An individual may also assist another person who is 21 years of age or older in cultivating marijuana for personal, nonmedical use. Any marijuana grown by an individual for personal, nonmedical use may not be sold.⁵

Enclosure Requirements

Colorado law requires that marijuana cultivations, both for medical and personal, nonmedical use, be in an enclosed and locked space. The law defines "enclosed" as a permanent or semi-permanent area that is covered and surrounded on all sides. A "locked space" is defined as being secured at all points of ingress or egress with a locking mechanism designed to limit access, such as with a key or combination lock.⁶

If marijuana is being grown in a residence for personal, nonmedical use, additional provisions of state law designed to limit access to the marijuana by persons under the age of 21 apply.

Local Ordinances

While the growing and possession of marijuana plants are protected under the Colorado Constitution, as previously discussed, several local jurisdictions in Colorado, including Colorado Springs, Denver, Douglas County, Pueblo, and Pueblo County, have passed ordinances that place additional restrictions on marijuana home grows.

The most common of these are ordinances that limit the total number of marijuana plants that may be grown by an individual or in a household. For example, Douglas County's ordinance limits the total number of marijuana plants that may be grown to 12 per household, regardless of whether those plants are being grown by a medical marijuana patient, or caregiver, or for personal, nonmedical use. The Douglas County ordinance also requires tenants to obtain written permission from the property owner prior to growing marijuana on the property. Colorado Springs' ordinance does not allow individuals to cultivate more than 12 medical marijuana plants.

Many local jurisdictions also have general nuisance ordinances related to odor, noise, or other factors that may impact residential marijuana growers. Many of these nuisance ordinances are complaint-based and action is only taken by the local jurisdiction if a sufficient number of complaints are received. For example, the city of Pueblo has a nuisance ordinance specifically related to marijuana that includes violations related to the visual observance of marijuana grows, light, odor, traffic, and noise.

⁵Colo. Const. art. XVIII, § 16 (3)(b).

⁶Section 18-18-406 (3)(b), C.R.S.