Amendment to Costilla County Land Use Code

Section M: Review Criteria for Medical, Sales, Cultivation, Infused and Retail Marijuana.

A. Purpose.

Regulated medical and retail marijuana is allowed in Colorado under the provisions of Sections 14 and 16 of article XVIII of the Colorado Constitution; the Colorado Medical Marijuana Code, Article 43.3 of title 12, C.R.S.; the Colorado Retail Marijuana Code, Article 43.4 of title 12, C.R.S.; and rules promulgated pursuant to these authorities, 1 CCR 212-1 and 1 CCR 212-2 ("State Regulations"). The laws authorize counties and municipalities to permit and regulate certain medical and retail marijuana establishments (" marijuana business") within their jurisdictions. The purpose of these regulations is to further prescribe the manner in which marijuana businesses can be conducted in unincorporated Costilla County and to authorize licensing in Costilla County as provided in 12-43.3-301 and 12-43.4-301, C.R.S., as amended. These regulations shall have no applicability within any local municipality.

B. Prior to operation of any medical, sales, cultivation, infused or retail marijuana, in unincorporated Costilla County a Special Use Review Permit Application must be obtained from the Costilla County Planning and Zoning and be in compliance with the review criteria in Section 5.30 including this Section M Review Criteria for Marijuana in the Costilla County Land Use Code. Applicant also needs to comply with Article 5, Section 5.30 D. Non-Residential Land Use Permit and Checklist. All applicant must comply with Costilla County Marijuana Licensing Regulations and State of Colorado Marijuana Regulations.

All applicants within the Watershed Protection Overlay District need to follow the Guidelines for Watershed Protection Overlay Development.

C. Review Criteria.

1. No Marijuana Business/Establishment shall be allowed as Home Occupation use.

2. Separation Requirements:

    a. The separation is measured in the direct line direct between the nearest walls of premise to the nearest portion of the use listed below.

b. **Location:** No medical marijuana dispensaries, optional premises cultivation operation, infused products or retail marijuana businesses, retail cultivation facility shall be located within 100 feet of the following:

- Any existing church or religious institution in any district;
- Any existing licensed childcare facility;
- Any existing alcohol or drug rehabilitation facility;
- Any existing group home for the developmentally disabled;
- Any public community center, park, publicly owned or maintained building or facility open for use to the general public;
- Residential Dwelling. "This distance limitation shall not apply to residential dwelling located within a Commercial Zoned District."

c. **Location:** No medical marijuana center, sales, cultivation, infused and retail marijuana store shall be located within 1000 feet of any existing public or private elementary, middle, junior high or high school as measured from the property line of the school to the wall of the Medical Marijuana center sales, cultivation, infused or Retail Marijuana Store/establishment.

d. **No Marijuana Businesses/Establishment shall be located in**:

- A building containing residential units
- A movable or mobile structure

e. **Prohibited Use:** Pursuant to C.R.S. 9-7-113 "Use of flammable gases in the extraction of THC or other cannaboids is expressly prohibited in the unincorporated areas of Costilla County.

3. **Sales.** Retail sales of marijuana and/or marijuana infused products shall be separated from a grow operation as required by state law.

4. **Visual Screening.** A fencing and/or landscaping plan may be required depending on the proximity of the proposed cultivation to neighboring properties or public rights of way. Such plan shall demonstrate adequate visual blending of outdoor storage areas, cultivation operations from adjacent properties, applicable view corridors, and/or public roads and right of way.

5. **Adequate Water.** The applicant for a marijuana growing operation shall demonstrate is part of the special use permit that all property to be used for a marijuana growing operation has a legal, physical, and right to use a water

supply and dependable water supply at the time of application as required by the Division of Water Resources. Confirmation of the required water supply much be attached to t the Special Use Permit. In addition to Section 5.30, marijuana sales/growing operations must have possession, own decreed water rights or provide proof from a municipality that it agrees to provide water to the applicant.

6. **Odor Mitigation Plan.** The applicant may be require to provide an Odor Mitigation Plan and/or report detailing the effective mitigation of any odors of the proposed use(s) such as proper ventilation/filtering or the mitigation and rectification of any past odors reported from cultivation operations on the property.

7. **Security.** The Special Use Permit shall comply with any and all applicable State rules and regulations for on-site security.

8. **Products and Accessories.** All alarms, horns, strobe lights, products and accessories shall be stored within a completely enclosed, alarmed and secured building at all times. Products, accessories and associated paraphernalia shall not be visible from a public sidewalk or right of way.

9. **Signage.** The applicant will be required to follow Article 5, Section 5.40 *Signs; Costilla County Land Use Code.*

10. **Structure Size Limitations.** Any cultivation commercial operation of any size shall be constructed in compliance with state marijuana regulations and Costilla County Land Use Permits for Construction.

11. **No entitlement of vested right.** No person shall have any entitlement or vested right to licensing under these regulations, the Costilla County zoning approvals, or Costilla County land use permits. To lawfully engage in the business of selling, cultivating marijuana in unincorporated Costilla County, all persons must obtain a license/permit under these regulations. Such a license/permit is a revocable privilege subject to the will and scrutiny of local and state authorities.

12. **Transfer of Ownership.** Any license/permit issued under these regulations is not transferable or assignable. Any change of ownership shall require a new license/permit.

13. **Change of Location.** Any license/permit granted under these regulations is limited to the location(s) specified on the license/permit application. Operation of a medical marijuana center, optional premises cultivation facility, retail marijuana store, retail marijuana cultivation facility or an off-premises storage facility at a new location requires a new license/permit.

14. **Modification of premises.** Modification of any building structure where a medical marijuana center, optional premises cultivation facility, retail marijuana store, retail marijuana cultivation facility, is located is subject to all applicable provisions of the Land Use Code.