

## MARIJUANA RESEARCH

### CREEDE'S CURRENT REGULATIONS

Prior to the legalization of retail marijuana, the City of Creede adopted several temporary moratoriums and finally one permanent (unless changed by ordinance and/or legislation) moratorium during October of 2010 on allowing medical marijuana related facilities with Ordinance 361. Please note that regulation of medical marijuana is currently completely separate from retail marijuana regulation.

Once Amendment 64 was approved, Colorado municipalities had to either prohibit or regulate retail marijuana. We opted to prohibit operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores within city limits on May 7, 2013 with Ordinance 375.

### DISTANCE REGULATIONS

As our attorney pointed out several months ago, federal regulations prohibit any MJ facilities within 1000 feet of a school, youth center, swimming pool, playground or other medical or retail marijuana stores. I've attached a satellite map and a zoning map imposed with approximate 1000 foot distances in red from the current school playground and the current school preschool, both of which may remain in town. This distance is measured as the crow flies rather than the shortest possible pedestrian route as applicable to liquor license distances.

Here is a possible complication: the 1000 foot restriction could arguably apply to the skate park and/or the baseball field. The federal regulations define "playgrounds" as:

-Any out-door facility (including any parking lot appurtenant thereto) intended for recreation, open to the public, and with any portion thereof containing three or more separate apparatus intended for the recreation of children including, but not limited to, sliding boards, swing-sets, and teeterboards

and

-The term "youth center" means any recreational facility and/or gymnasium (including any parking lot appurtenant thereto), in-tended primarily for use by persons under 18 years of age, which regularly provides athletic, civic, or cultural activities.

This would further limit available space for marijuana operations; I've outlined this possible area of restriction in blue on the maps. Several municipalities allowing retail marijuana have put additional distance restrictions in place, for example, stores must be at least 200 feet from a residence. Municipalities do not have the ability to reduce this restriction as with liquor license distances.

## RETAIL MJ TAX STRUCTURE

Unlike medical marijuana sales, which are subject to standard state sales tax of 2.9%, retail marijuana is subject to total taxes of 27.9%, including a 10% state sales tax, the standard 2.9% state sales tax, and a 15% excise tax. Unlike all our other business activities, local taxes are not added to that number, but included in the 10%. One local entity receives 15% of the 10% state sales tax, typically the municipality in which the retail marijuana store is located. Counties only receive tax revenue if the store is in an unincorporated area of their county. Extensive information on this tax structure is available at the [Department of Revenue's Taxation Division](#).

Additional local sales or excise taxes may be imposed, but are not collected, administered, or enforced by the Department of Revenue as with our other taxes. Such additional taxes would require voter approval and the creation of a tax collection process.

### LOCAL LICENSING, AUTHORITY, AND FEES

Should some form of retail marijuana facility be allowed in city limits, a marijuana local licensing authority would need to be established. As the town board serves as the liquor LLA without any problems, they would be the most likely candidate for marijuana LLA.

State licensing fees set forth in the July 7, 2014 Fee Schedule are as follows:

LICENSE TYPE	RETAIL STORE	CULTIVATION FAC.	PRODUCTS MANUF.	TESTING FACILITY
APPLICATION FEE	\$5,000 (1/2 to local juris.)	\$5,000 (1/2 to local juris.)	\$5,000 (1/2 to local juris.)	\$1,000 (1/2 to local juris.)
INITIAL LIC. FEE	\$3,000	\$2,200	\$2,200	\$2,200
RENEWAL FEE	\$3,300	\$2,500	\$2,500	\$2,500

Municipalities may set their own fees for retail marijuana. A wide range of fees exist. For a retail store, here are some sample fees from other communities:

MUNICIPALITY	LICENSE FEE	RENEWAL
Eagle	\$3,000.00	\$500.00
Steamboat Springs	\$9,650.00	\$9,650.00
Lafayette	\$8,000.00	\$3,000.00
Fort Collins	\$3,000.00	\$500.00
Fraser	\$2,500.00	\$500.00
Durango	\$5,000.00	\$3,000.00
Nederland	\$575.00	\$575.00

### WHICH TOWNS HAVE APPROVED RETAIL MARIJUANA?

- Alma
- Aspen
- Aurora
- Black Hawk
- Boulder
- Breckenridge
- Carbondale
- Central City
- Crested Butte
- Denver
- Dumont
- Durango
- Eagle
- Edgewater
- Empire
- Fort Collins
- Frisco
- Garden City
- Georgetown
- Glendale
- Glenwood Springs

*This document is for informational purposes only and is not intended for use or substitution as legal advice. Contributions are welcome and can be submitted to the Creede Town Clerk at [clerk@creedetownhall.com](mailto:clerk@creedetownhall.com).*

- Greeley
- Idaho Springs
- Pueblo
- Lafayette
- Larimer County
- Leadville
- Louisville
- Moffat
- Nederland
- Northglenn
- Oak Creek
- Red Cliff
- Ridgway
- Salida
- Silt
- Silverthorne
- Silverton
- Steamboat Springs
- Telluride
- Wheat Ridge

Please see [CML's Retail Marijuana Page](#) for more detailed information on municipal actions.

#### WHICH COUNTIES HAVE APPROVED RETAIL MARIJUANA?

- Archuleta
- Boulder
- Clear Creek
- Costilla
- Denver
- Eagle
- Grand
- Huerfano
- La Plata
- Park
- Pitkin
- Pueblo
- Saguache
- San Juan
- San Miguel
- Summit

#### ZONING

One thing that I didn't expect was a repeated warning from clerks who have permitted RMJ/MMJ to pay careful attention to zoning concerns as resident complaints centered on the change of the nature of a neighborhood. There have been issues with storefronts & traffic with retail, but more than that, issues with cultivation concentrations in towns. Allowing retail marijuana stores may require some work with the land use code and/or heavy restrictions on signage, zoning, etc., and is, again, strongly recommended by those that jumped in right away. Allowing cultivation and/or packaging/testing facilities may require additional zoning and/or building code regulations.

#### MINERAL COUNTY VOTING RECORDS

Mineral County voted narrowly in favor of Colorado Amendment 64 legalizing the sale of marijuana for recreational use with 338 voters or 52.5% voting yes and 305 voters or 47.4% voting no. Mineral County voters supported Proposition AA imposing a 15% excise tax on recreational marijuana sales with 414 voters or 70.5% voting yes and 173 voters or 29.4% voting no.

To date no ballot issues related to local marijuana regulation have been submitted to the Mineral County or the City of Creede electorate.

## HELPFUL LINKS:

An enormous amount of information exists in regards to health concerns and marijuana. Please do your own research to determine your stance on whether allowing retail marijuana establishments represents a public health risk or benefit.

Similarly, arguments for and against broad legalization are innumerable, and again, please do your own research to determine your stance on it. Here are some links to various news stories and opinions that are specific to LOCAL legalization.

An [extremely comprehensive packet](#) prepared for the consideration of retail recreational marijuana in Avon...in the 4.22.14 Packet, pages 88-200. Be patient, the document takes several minutes to load.

Great FAQ and other info from Nederland (small town, one of the first to approve recreational)  
<http://nederlandco.org/government/town-hall/other-permits-licenses/>

[CML's Retail Marijuana Information Page](#)

[Quinnipiac University Polls](#) - A wide array of polling questions related to marijuana legalization in Colorado.

[How Colorado Towns Have Diverged on Marijuana Legalization](#)

## ATTACHED:

Zoning Map & Satellite Map showing 1000-foot distance areas.

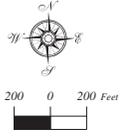
Federal Distance Regulations

Heil email re: retail marijuana

Public submissions



The City of Creede,  
Colorado  
Zoning Map



Mineral County, Colorado

Legend

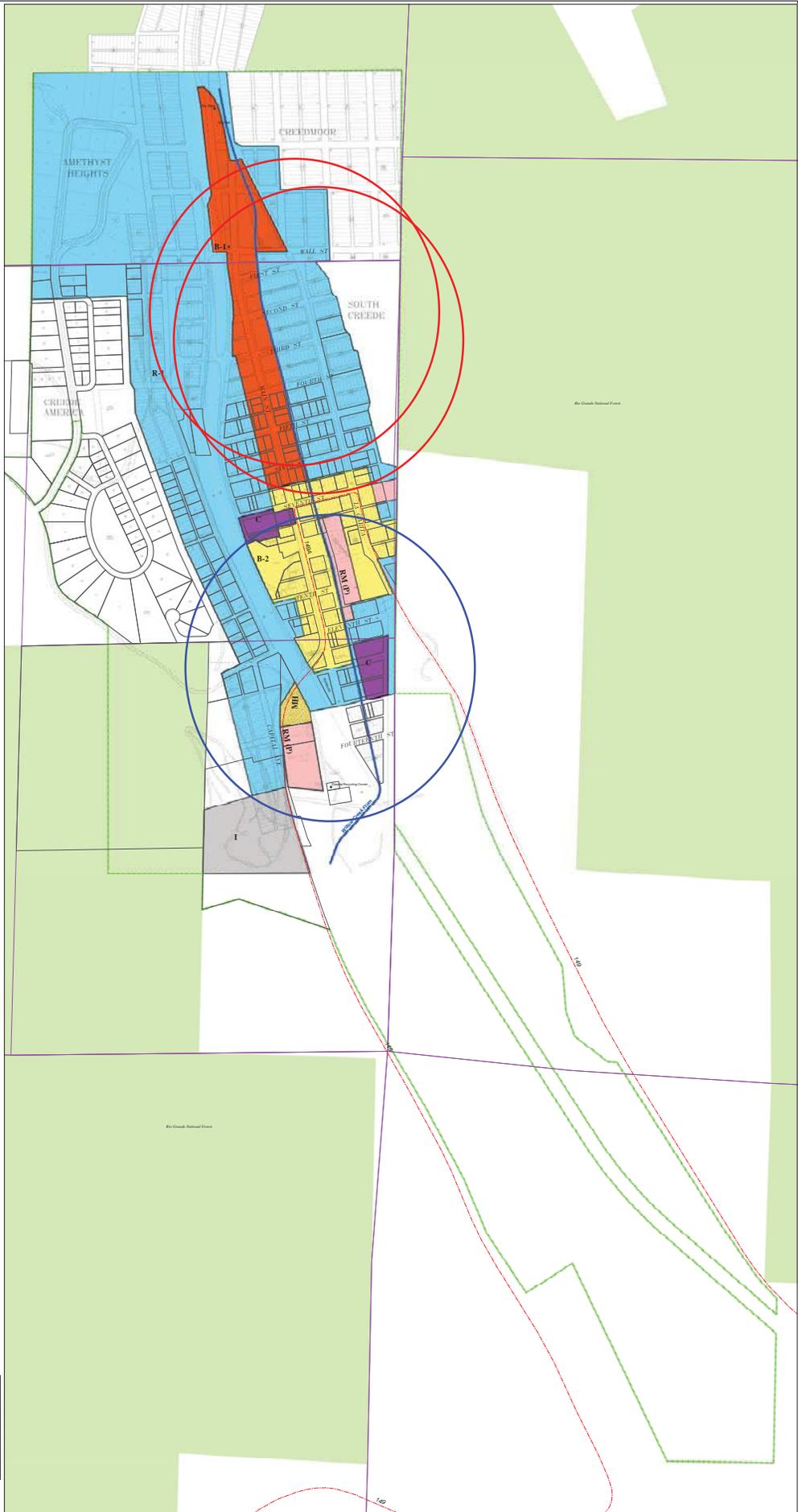
- CITY OF CREEDE ZONING**
- R-1 - Residential
  - RM (P) - Residential Medium Density
  - MH
  - B-1 - Business 1
  - B-2 - Business 2
  - C - Commercial
  - I - Industrial
- CREEDE CITY LIMITS**
- CREEDE CITY LIMITS
- PARCELS**
- PARCELS
- ABANDONED RAILROAD**
- ABANDONED RAILROAD
- WILLOW CREEK FLUME**
- WILLOW CREEK FLUME



City of Creede



**DISCLAIMER:**  
This map is for illustrative purposes only, and is not intended to constitute a legal document. THE CITY OF CREEDE, COLORADO, AND THE ENGINEERING FIRM SHALL NOT BE RESPONSIBLE FOR ANY ERRORS, OMISSIONS, OR INADEQUACIES IN THE INFORMATION PROVIDED HEREON, AND SHALL NOT BE RESPONSIBLE FOR ANY CONSEQUENCES ARISING FROM THE USE OF THIS INFORMATION. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INFORMATION FROM THE APPROPRIATE AGENCIES. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INFORMATION FROM THE APPROPRIATE AGENCIES. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INFORMATION FROM THE APPROPRIATE AGENCIES.



Pub. L. 99-570, §1004(a), substituted “term of supervised release” for “special parole term”.

1984—Subsecs. (a), (b). Pub. L. 98-473, §503(b)(3), substituted “Except as provided in section 845a of this title, any” for “Any”.

Pub. L. 98-473, §224(b), which directed amendment of this section effective Nov. 1, 1987 (see section 235(a)(1) of Pub. L. 98-473 set out as an Effective Date note under section 3551 of Title 18, Crimes and Criminal Procedure) was repealed by Pub. L. 99-570, §1005(b)(1).

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1004(a) of Pub. L. 99-570 effective on date of taking effect of section 3583 of Title 18, Crimes and Criminal Procedure (Nov. 1, 1987), see section 1004(b) of Pub. L. 99-570 set out as a note under section 841 of this title.

### § 860. Distribution or manufacturing in or near schools and colleges

#### (a) Penalty

Any person who violates section 841(a)(1) of this title or section 856 of this title by distributing, possessing with intent to distribute, or manufacturing a controlled substance in or on, or within one thousand feet of, the real property comprising a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university, or a playground, or housing facility owned by a public housing authority, or within 100 feet of a public or private youth center, public swimming pool, or video arcade facility, is (except as provided in subsection (b) of this section) subject to (1) twice the maximum punishment authorized by section 841(b) of this title; and (2) at least twice any term of supervised release authorized by section 841(b) of this title for a first offense. A fine up to twice that authorized by section 841(b) of this title may be imposed in addition to any term of imprisonment authorized by this subsection. Except to the extent a greater minimum sentence is otherwise provided by section 841(b) of this title, a person shall be sentenced under this subsection to a term of imprisonment of not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marijuana.

#### (b) Second offenders

Any person who violates section 841(a)(1) of this title or section 856 of this title by distributing, possessing with intent to distribute, or manufacturing a controlled substance in or on, or within one thousand feet of, the real property comprising a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university, or a playground, or housing facility owned by a public housing authority, or within 100 feet of a public or private youth center, public swimming pool, or video arcade facility, after a prior conviction under subsection (a) of this section has become final is punishable (1) by the greater of (A) a term of imprisonment of not less than three years and not more than life imprisonment or (B) three times the maximum punishment authorized by section 841(b) of this title for a first offense, and (2) at least three times any term of supervised release authorized by section 841(b) of this title for a first offense. A fine up to three

times that authorized by section 841(b) of this title may be imposed in addition to any term of imprisonment authorized by this subsection. Except to the extent a greater minimum sentence is otherwise provided by section 841(b) of this title, a person shall be sentenced under this subsection to a term of imprisonment of not less than three years. Penalties for third and subsequent convictions shall be governed by section 841(b)(1)(A) of this title.

#### (c) Employing children to distribute drugs near schools or playgrounds

Notwithstanding any other law, any person at least 21 years of age who knowingly and intentionally—

(1) employs, hires, uses, persuades, induces, entices, or coerces a person under 18 years of age to violate this section; or

(2) employs, hires, uses, persuades, induces, entices, or coerces a person under 18 years of age to assist in avoiding detection or apprehension for any offense under this section by any Federal, State, or local law enforcement official,

is punishable by a term of imprisonment, a fine, or both, up to triple those authorized by section 841 of this title.

#### (d) Suspension of sentence; probation; parole

In the case of any mandatory minimum sentence imposed under this section, imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under this section shall not be eligible for parole until the individual has served the mandatory minimum term of imprisonment as provided by this section.

#### (e) Definitions

For the purposes of this section—

(1) The term “playground” means any outdoor facility (including any parking lot appurtenant thereto) intended for recreation, open to the public, and with any portion thereof containing three or more separate apparatus intended for the recreation of children including, but not limited to, sliding boards, swings, and teeterboards.

(2) The term “youth center” means any recreational facility and/or gymnasium (including any parking lot appurtenant thereto), intended primarily for use by persons under 18 years of age, which regularly provides athletic, civic, or cultural activities.

(3) The term “video arcade facility” means any facility, legally accessible to persons under 18 years of age, intended primarily for the use of pinball and video machines for amusement containing a minimum of ten pinball and/or video machines.

(4) The term “swimming pool” includes any parking lot appurtenant thereto.

(Pub. L. 91-513, title II, §419, formerly §405A, as added Pub. L. 98-473, title II, §503(a), Oct. 12, 1984, 98 Stat. 2069; amended Pub. L. 99-570, title I, §§1004(a), 1104, 1105(c), 1841(b), 1866(b), (c), Oct. 27, 1986, 100 Stat. 3207-6, 3207-11, 3207-52, 3207-55; Pub. L. 99-646, §28, Nov. 10, 1986, 100 Stat. 3598; Pub. L. 100-690, title VI, §§6452(b)(1), 6457, 6458, Nov. 18, 1988, 102 Stat. 4371, 4373; renumbered

§ 419 and amended Pub. L. 101-647, title X, §§ 1002(b), 1003(b), title XII, § 1214, title XV, § 1502, title XXXV, § 3599L, Nov. 29, 1990, 104 Stat. 4827, 4829, 4833, 4836, 4932; Pub. L. 103-322, title XIV, § 140006, title XXXII, § 320107, title XXXIII, § 330009(a), Sept. 13, 1994, 108 Stat. 2032, 2111, 2143.)

#### CODIFICATION

Section was classified to section 845a of this title prior to renumbering by Pub. L. 101-647.

#### AMENDMENTS

1994—Subsec. (a). Pub. L. 103-322, § 320107, substituted “playground, or housing facility owned by a public housing authority, or within” for “playground, or within”.

Subsec. (b). Pub. L. 103-322, §§ 320107, 330009(a), substituted “playground, or housing facility owned by a public housing authority, or within” for “playground, or within” and inserted a period at end of penultimate sentence.

Subsecs. (c) to (e). Pub. L. 103-322, § 140006, added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

1990—Subsec. (a). Pub. L. 101-647, § 1502(1), inserted “or a playground,” after “university,” and struck out “playground,” after “within 100 feet of a”.

Pub. L. 101-647, § 1214(1)(C), substituted “a person shall be sentenced under this subsection to a term of imprisonment of not less than one year” for “a term of imprisonment under this subsection shall be not less than one year”.

Pub. L. 101-647, § 1214(1)(B), inserted “A fine up to twice that authorized by section 841(b) of this title may be imposed in addition to any term of imprisonment authorized by this subsection.”

Pub. L. 101-647, § 1214(1)(A), which directed the amendment of par. (1) by striking out “, or a fine, or both,” could not be executed because those words did not appear. See note below.

Pub. L. 101-647, § 1003(b)(1), which directed the substitution of “subject to (1) twice the maximum punishment authorized by section 841(b) of this title” for “punishable (1) by a term of imprisonment, or a fine, or both, up to twice that authorized by section 841(b) of this title”, was executed by making the substitution for “punishable (1) by a term of imprisonment, or fine, or both, up to twice that authorized by section 841(b) of this title” to reflect the probable intent of Congress.

Subsec. (b). Pub. L. 101-647, § 3599L, substituted “has become final” for “have become final”.

Pub. L. 101-647, § 1502(2), inserted “or a playground,” after “university,” and struck out “playground,” after “within 100 feet of a”.

Pub. L. 101-647, § 1214(2)(B), inserted after first sentence “A fine up to three times that authorized by section 841(b) of this title may be imposed in addition to any term of imprisonment authorized by this subsection. Except to the extent a greater minimum sentence is otherwise provided by section 841(b) of this title, a person shall be sentenced under this subsection to a term of imprisonment of not less than three years”.

Subsec. (b)(1)(B). Pub. L. 101-647, § 1214(2)(A), which directed the amendment of subpar. (B) by striking “, or a fine up to three times that” through “or both”, could not be executed because the language did not appear after execution of the intervening amendment by Pub. L. 101-647, § 1003(b)(2). See below.

Pub. L. 101-647, § 1003(b)(2), substituted “three times the maximum punishment authorized by section 841(b) of this title for a first offense” for “a term of imprisonment of up to three times that authorized by section 841(b) of this title for a first offense, or a fine up to three times that authorized by section 841(b) of this title for a first offense, or both”.

Subsec. (c). Pub. L. 101-647, § 1214(3), inserted “mandatory minimum” after “In the case of any”, struck out

“subsection (b) of” after “imposed under”, and substituted “An individual convicted under this section shall not be eligible for parole until the individual has served the mandatory minimum term of imprisonment as provided by this section” for “An individual convicted under subsection (b) of this section shall not be eligible for parole under chapter 311 of title 18 until the individual has served the minimum sentence required by such subsection”.

1988—Subsec. (a). Pub. L. 100-690, §§ 6457, 6458(a), inserted “, possessing with intent to distribute,” after “distributing” and “, or within 100 feet of a playground, public or private youth center, public swimming pool, or video arcade facility,” after “university”.

Subsec. (b). Pub. L. 100-690, §§ 6452(b)(1), 6457, 6458(a), inserted “, possessing with intent to distribute,” after “distributing”, and “, or within 100 feet of a playground, public or private youth center, public swimming pool, or video arcade facility,” after “university”, substituted “a prior conviction” for “a prior conviction or convictions”, and inserted at end “Penalties for third and subsequent convictions shall be governed by section 841(b)(1)(A) of this title.”

Subsec. (d). Pub. L. 100-690, § 6458(b), added subsec. (d).

1986—Subsec. (a). Pub. L. 99-570, §§ 1104(a), (b), 1105(c), 1841(b)(1), inserted “or section 856 of this title” and “or manufacturing”, substituted “a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university” for “a public or private elementary or secondary school”, struck out “involving the same controlled substance and schedule” after “for a first offense”, and inserted “Except to the extent a greater minimum sentence is otherwise provided by section 841(b) of this title, a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.”

Pub. L. 99-570, § 1004(a), substituted “term of supervised release” for “special parole term”.

Subsec. (b). Pub. L. 99-646 which directed that “parole” be inserted after “(2) at least three times any special” could not be executed in view of prior amendment by Pub. L. 99-570, § 1104(c) below.

Pub. L. 99-570, § 1166(b), which directed that “term of supervised release” be substituted for “special term” could not be executed in view of prior amendment by Pub. L. 99-570, § 1104(c) below.

Pub. L. 99-570, §§ 1104(a), 1841(b)(2), inserted reference to section 856 of this title, inserted “or manufacturing” after “distributing” and substituted “a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university” for “a public or private elementary or secondary school”.

Pub. L. 99-570, § 1104(c), amended cls. (1) and (2) generally. Prior to amendment, cls. (1) and (2) read as follows: “(1) by a term of imprisonment of not less than three years and not more than life imprisonment and (2) at least three times any special term authorized by section 841(b) of this title for a second or subsequent offense involving the same controlled substance and schedule.”

Subsec. (c). Pub. L. 99-570, § 1866(c), substituted reference to chapter 311 of title 18 for reference to section 4202 of that title.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1004(a) of Pub. L. 99-570 effective on date of taking effect of section 3583 of Title 18, Crimes and Criminal Procedure (Nov. 1, 1987), see section 1004(b) of Pub. L. 99-570 set out as a note under section 841 of this title.

**§ 860a. Consecutive sentence for manufacturing or distributing, or possessing with intent to manufacture or distribute, methamphetamine on premises where children are present or reside**

Whoever violates section 841(a)(1) of this title by manufacturing or distributing, or possessing with intent to manufacture or distribute, methamphetamine or its salts, isomers or salts of isomers on premises in which an individual who is under the age of 18 years is present or resides, shall, in addition to any other sentence imposed, be imprisoned for a period of any term of years but not more than 20 years, subject to a fine, or both.

(Pub. L. 91-513, title II, §419a, as added Pub. L. 109-177, title VII, §734(a), Mar. 9, 2006, 120 Stat. 270.)

**§ 861. Employment or use of persons under 18 years of age in drug operations**

**(a) Unlawful acts**

It shall be unlawful for any person at least eighteen years of age to knowingly and intentionally—

(1) employ, hire, use, persuade, induce, entice, or coerce, a person under eighteen years of age to violate any provision of this subchapter or subchapter II of this chapter;

(2) employ, hire, use, persuade, induce, entice, or coerce, a person under eighteen years of age to assist in avoiding detection or apprehension for any offense of this subchapter or subchapter II of this chapter by any Federal, State, or local law enforcement official; or

(3) receive a controlled substance from a person under 18 years of age, other than an immediate family member, in violation of this subchapter or subchapter II of this chapter.

**(b) Penalty for first offense**

Any person who violates subsection (a) of this section is subject to twice the maximum punishment otherwise authorized and at least twice any term of supervised release otherwise authorized for a first offense. Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall not be less than one year.

**(c) Penalty for subsequent offenses**

Any person who violates subsection (a) of this section after a prior conviction under subsection (a) of this section has become final, is subject to three times the maximum punishment otherwise authorized and at least three times any term of supervised release otherwise authorized for a first offense. Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall not be less than one year. Penalties for third and subsequent convictions shall be governed by section 841(b)(1)(A) of this title.

**(d) Penalty for providing or distributing controlled substance to underage person**

Any person who violates subsection (a)(1) or (2) of this section<sup>1</sup>

(1) by knowingly providing or distributing a controlled substance or a controlled substance analogue to any person under eighteen years of age; or

(2) if the person employed, hired, or used is fourteen years of age or younger,

shall be subject to a term of imprisonment for not more than five years or a fine of not more than \$50,000, or both, in addition to any other punishment authorized by this section.

**(e) Suspension of sentence; probation; parole**

In any case of any sentence imposed under this section, imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under this section of an offense for which a mandatory minimum term of imprisonment is applicable shall not be eligible for parole under section 4202 of title 18<sup>2</sup> until the individual has served the mandatory term of imprisonment as enhanced by this section.

**(f) Distribution of controlled substance to pregnant individual**

Except as authorized by this subchapter, it shall be unlawful for any person to knowingly or intentionally provide or distribute any controlled substance to a pregnant individual in violation of any provision of this subchapter. Any person who violates this subsection shall be subject to the provisions of subsections (b), (c), and (e) of this section.

(Pub. L. 91-513, title II, §420, formerly §405B, as added Pub. L. 99-570, title I, §1102, Oct. 27, 1986, 100 Stat. 3207-10; amended Pub. L. 100-690, title VI, §§6452(b)(1), 6459, 6470(d), Nov. 18, 1988, 102 Stat. 4371, 4373, 4378; renumbered §420 and amended Pub. L. 101-647, title X, §§1002(c), 1003(c), title XXXV, §3599L, Nov. 29, 1990, 104 Stat. 4827, 4829, 4932.)

REFERENCES IN TEXT

Section 4202 of title 18, referred to in subsec. (e), which, as originally enacted in Title 18, Crimes and Criminal Procedure, related to eligibility of prisoners for parole, was repealed and a new section 4202 enacted as part of the repeal and enactment of a new chapter 311 (§4201 et seq.) of Title 18, by Pub. L. 94-233, §2, Mar. 15, 1976, 90 Stat. 219. For provisions relating to the eligibility of prisoners for parole, see section 4205 of Title 18. Pub. L. 98-473, title II, §§218(a)(5), 235(a)(1), (b)(1), Oct. 12, 1984, 98 Stat. 2027, 2031, 2032, as amended, provided that, effective on the first day of the first calendar month beginning 36 months after Oct. 12, 1984 (Nov. 1, 1987), chapter 311 of Title 18 is repealed, subject to remaining effective for five years after Nov. 1, 1987, in certain circumstances. See Effective Date note set out under section 3551 of Title 18.

CODIFICATION

Section was classified to section 845b of this title prior to renumbering by Pub. L. 101-647.

AMENDMENTS

1990—Subsec. (b). Pub. L. 101-647, §1003(c)(1), which directed the substitution of “is subject to twice the maximum punishment otherwise authorized” for “is punishable by a term of imprisonment up to twice that authorized, or up to twice the fine authorized, or both,” was executed by making the substitution for “is pun-

<sup>1</sup> So in original. Probably should be followed by a dash.

<sup>2</sup> See References in Text note below.

**From:** [Clyde Dooley](#)  
**To:** [REDACTED]  
**Subject:** FW: Recreational Marijuana  
**Date:** Monday, June 23, 2014 9:47:10 AM  
**Attachments:** [21 USC 860 HL.pdf](#)  
[Certification .htm](#)

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**From:** Eric Heil [REDACTED]  
**Sent:** Friday, April 25, 2014 8:28 AM  
**To:** Eric Grossman  
**Cc:** Elizabeth Zurn; Creede Manager  
**Subject:** Re: Recreational Marijuana

Eric, if the current school closes and the playground is also closed then the Federal distance requirement does not apply to this property. I've attached the Federal regulations with the relevant sections highlighted. Note that "Playground" is defined as containing 3 pieces of playground equipment. I think a preparing a rough map is your best first step to get an idea of where retail marijuana establishments may be possible. Recreational marijuana is a complicated and extensive subject as well as divisive. There are some good examples of regulations in Colorado. In Avon's review we felt at the staff level that it was much better to have a high license application fee (like \$10k to \$15k) and a high annual license renewal fee to restrict proposed shops to the more capable and sophisticated businesses rather than give licenses to anyone who wanted to give a go. Eagle County has taken the open approach and they have a planner position who is spending half his time dealing with all aspects of business licensing for marijuana establishments.

Several communities in Colorado have referred the question of allowing marijuana establishments to the voters. The deadline to refer a ballot question is Friday, September 5. The deadline to send a notification to Mineral County about intent to participate in a general election is Friday, July 25.

If desired, I can provide a comprehensive presentation and facilitate a community meeting which would include an overview of Amendment 64, examples of regulations in Colorado communities that are permitting marijuana establishments, administrative practicalities, and a list of important policy considerations and choices.

I offer the following thoughts and direct advice:

- Permitting Marijuana Establishments will affect the character of Creede. Whether good or bad is a matter of opinion.
- Permitting Marijuana Establishments for revenue is bad idea, it should be done because it reflects the will of the public.
- Marijuana Establishments will generate new, complicated and continuous administrative and legal issues - this is simple a fact because Colorado is way out in the forefront nationally in legalizing and regulating marijuana, the rules are constantly evolving in Colorado and the Federal reaction to states legalizing marijuana is constantly evolving. Think liquor licensing times 50.
- If there is desire to pursue permitting marijuana establishments I would strongly recommend a solid community presentation and discussion process in June, July and August and referral to the Creede voters in November.

Eric

Eric J. Heil, Esq., A.I.C.P.  
Heil Law & Planning LLC  
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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**From:** Eric Grossman [REDACTED]  
**Reply-To:** Eric Grossman [REDACTED]  
**Date:** Thursday, April 24, 2014 at 5:59 PM  
**To:** Eric Heil <[REDACTED]>  
**Cc:** Elizabeth Zurn [REDACTED] >, Clyde Dooley <[REDACTED]>  
**Subject:** Re: Recreational Marijuana

question:  
how would the school leaving town affect the conversation? they are due to move into the new school in the fall of 2015.

---

**From:** Eric Heil [REDACTED]  
**To:** mountain lion [REDACTED]  
**Cc:** Elizabeth Zurn [REDACTED]; Creede Manager [REDACTED]  
**Sent:** Thursday, April 24, 2014 5:49 PM  
**Subject:** Re: Recreational Marijuana

Here is some valuable and pointed advice - Avon just went through a full blown process to consider Recreational Marijuana - you can go to Avon.org and look at the April 22 Council meeting packet to get an extremely comprehensive report on all aspects of the subject. MOST IMPORTANT is the zoning map that depicts a minimum 1,000' separation, property line to property line, from any school, public or private, and any playground from any potential area for recreational marijuana. If someone can pull out a box of crayons and draw in buffer areas from the school and playgrounds I think you'll find that there is very little, if any, commercial areas in Creede where Recreation Marijuana could be sold at retail. The 1,000' separation is a Federal requirement under the Controlled Substances Act which they have recently enforced in Boulder, so I strongly advise adhering to that setback. It is a good place to start with the analysis and it may answer the question just on that issue in a small town.

Eric

On Thu, Apr 24, 2014 at 4:50 PM, mountain lion <[REDACTED]>

wrote:

since we've sufficiently put off the demographic but not allowing atv's the way they wanted, why not rec pot?

it will be a fascinating conversation.

- da mayor creede

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**From:** Elizabeth Zurn [REDACTED]  
**To:** Creede City Clerk [REDACTED]; Creede City  
Manager <[REDACTED]>; Eric Grossman  
<[REDACTED]>

**Sent:** Wednesday, April 23, 2014 1:17 PM  
**Subject:** Recreational Marijuana

Hello,

I'm wondering if it would be alright to put a discussion of recreational marijuana on the May work session. I've had three people recently talk to me about the possibility of opening up a recreation marijuana facility in town, and I'd love to know staff's thoughts on the possibility of opting back in. I know there could potentially be a lot of administrative time and risk in licensing for these types of facilities, but now that other municipalities have done it, could there be a template out there that would make this an option for Creede? I think the economic potential for this is really great, and I'd love to see Creede start this conversation before other area municipalities so that we can get in on the beginning of the market.

Thanks,  
Elizabeth

--

Eric J. Heil, Esq., A.I.C.P.  
Heil Law & Planning, LLC

[REDACTED]

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8/14/14

## OPINION

## Legal Pot Is a Public Health Menace

By William J. Bennett  
And Robert A. White

The great irony, or misfortune, of the national debate over marijuana is that while almost all the science and research is going in one direction—pointing out the dangers of marijuana use—public opinion seems to be going in favor of broad legalization.

For example, last week a new study in the journal *Current Addiction Reports* found that regular pot use (defined as once a week) among teenagers and young adults led to cognitive decline, poor attention and memory, and decreased IQ. On Aug. 9, the American Psychological Association reported that at its annual convention the ramifications of marijuana legalization was much discussed, with Krista Lisdahl, director of the imaging and neuropsychology lab at the University of Wisconsin-Milwaukee, saying: "It needs to be emphasized that regular cannabis use, which we consider once a week, is not safe and may result in addiction and neurocognitive damage, especially in youth."

Since few marijuana users limit themselves to use once a week, the actual harm is much worse for developing brains. The APA noted that young people who become addicted to marijuana lose an average of six IQ points by adulthood. A long line of studies have found similar results—in 2012, a decades-long study of more than 1,000 New Zealanders who frequently smoked pot in adolescence pegged the IQ loss at eight points.

Yet in recent weeks and months, much media coverage of the marijuana issue has either tacitly or explicitly supported legalization. A CCN/ORC International survey in January found that a record 55% of Americans support marijuana legalization.

The disconnect between science and public opinion is so great that in a March WSJ/NBC



The Maggle's Farm recreational-marijuana store in Manitou Springs, Colo.

News poll, Americans ranked sugar as more harmful than marijuana. The misinformation campaign appears to be succeeding.

Here's the truth. The marijuana of today is simply not the same drug it was in the 1960s, '70s, or '80s, much less the 1930s. It is often at least five times stronger, with the levels of the psychoactive ingredient tetrahydrocannabinol, or THC, averaging about 15% in the marijuana at dispensaries found in the states that have legalized pot for "medicinal" or, in the case of Colorado, recreational use. Often the THC level is 20% or higher.

With increased THC levels come increased health risks. Since Colorado legalized recreational use earlier this year, two deaths in the state have already been linked to marijuana. In both cases it was consumed in edible form, which can result in the user taking in even more THC than when smoking pot. "One man jumped to his death after consuming a large amount of marijuana contained in a cookie," the Associated Press reported in April, "and in the other case, a man allegedly shot and killed his wife after eating marijuana candy." Reports are coming out of Colorado in what amounts to a parade of horrors

from more intoxicated driving to more emergency hospital admissions due to marijuana exposure and overdose.

Over the past 10 years, study after study has shown the damaging effect of marijuana on the teenage brain. Northwestern School of Medicine researchers reported in the *Schizophrenia Bulletin* in December that teens who smoked marijuana daily for about three years showed abnormal brain-structure changes. Marijuana use has clearly been linked to teen psychosis as well as decreases in IQ and permanent brain damage.

The response of those who support legalization: Teenagers can be kept away from marijuana. Yet given the dismal record regarding age-restricted use of tobacco and alcohol, success with barring teens from using legalized marijuana would be a first.

The reason such a large number of teens use alcohol and tobacco is precisely because those are legal products. The reason more are now using marijuana is because of its changing legal status—from something that was dangerous and forbidden to a product that is now considered "medicinal," and in the states of

Colorado and Washington recreational. Until recently, the illegality of marijuana, and the stigma of lawbreaking, had kept its use below that of tobacco and alcohol.

Legality is the mother of availability, and availability, as former Health, Education and Welfare Secretary Joseph A. Califano Jr. put it in his 2008 book on substance abuse, *"High Society,"* is the mother of use. According to the Substance Abuse and Mental Health Services Administration, currently 2.7 million Americans age 12 and older meet the clinical criteria for marijuana dependence, or addiction.

Mark A.R. Kleiman, a professor of public policy at the University of California, Los Angeles, has estimated that legalization can be expected to increase marijuana consumption by four to six times. Today's 2.7 million marijuana dependents (addicts) would thus expand to as many as 16.2 million with nationwide legalization. That should alarm any parent, teacher or policy maker.

There are two conversations about marijuana taking place in this country: One, we fear, is based on an obsolete perception of marijuana as a relatively harmless, low-THC product. The other takes seriously the science of the new marijuana and its effect on teens, whose adulthood will be marred by the irreversible damage to their brains when young.

Supporters of marijuana legalization insist that times are changing and policy should too. But they are the ones stuck in the past—and charting a dangerous future for too many Americans.

*Mr. Bennett is a former secretary of education (1985-88) and was the first director of the National Drug Control Policy (1989-90). Mr. White is an attorney in Princeton, N.J.*

Dan Henninger is away.

Submitted by Mary Rich 8/15/14