



## Parks & Open Space

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### *Hemp Acres on Boulder County Parks & Open Space (BCPOS) Agricultural Leases*

The inclusion of industrial hemp in the 2018 Farm Bill, effectively removed the last impediment to cultivating hemp for CBD oil, fiber, hemp oil or protein on BCPOS acres. We will **not** allow production of *Cannabis* that contains more than the legal limit of 0.3% THC. Contractors are paying relatively inflated prices for access to local agricultural land. We have received a credible report of cash rent of \$20,000 / acre on small private certified National Organic Program (NOP) property, to numerous offers of sub-leases in the range of \$300-\$1,500 / acre cash up-front, some including a (*bonus*) percentage of net profits. We are also urging you use some caution.

We need to charge a rental rate on hemp acres that is proportional to the potential income, but we also have no desire to set a floor for private hemp rental rates OR to conversely price virtually every other crop we can now grow out of the marketplace. This would be especially true for (*organic*) table food, which we have gone to great lengths to promote over the past decade. This is a rapidly evolving market, and one that is going to be subject to even more volatility than we currently have with most other crops. To allow our tenants adequate time to accomplish the necessary planning and to better inform negotiations regarding this new crop, we are listing the proposed conditions for future cultivation of industrial hemp on public land well in advance of the next growing season.

For the **2020 crop year**, we are proposing that BCPOS will charge our tenants ***the lesser*** of:

- 1.) A cash rent of \$500 / acre on hemp acres only (*existing agreed upon terms on the balance of all acres not in hemp*). All rent will be due 'in-arrears' at settlement, but no later than the standard December 15<sup>th</sup> settlement date of each year.
- 2.) One third (33%) of the net value of a sub-lease contract between the sub-lessee and the BCPOS tenant (*lessee*).

Not surprisingly, the lure of huge profits has attracted many '*speculators*' to this industry, some with far more money than any actual expertise or knowledge. The county wishes to only deal with knowledgeable and reputable contractors. While we normally discourage third party sub-leasing arrangements, for those tenants who might wish to sub-lease a portion of their leases to third parties for hemp production in 2020; we will have to pre-approve any sub-leases in writing. We are ***strongly encouraging*** tenants to collect any sub-lease rents '***in-advance***'. We still plan to collect the landlord's share '***in-arrears***' on or before the standard December 15 closing. (*We will allow our tenants the temporary cash-flow benefits of such arrangements*).

We also reserve the right to prohibit other production practices (*i.e. above ground 'swimming-pool' temporary water storage devices, non-removal of all drip irrigation and any plastic mulch at the end of the season, etc.*) that we would consider to be inconsistent with our open space values.

***Prior to planting of any type of industrial hemp in 2020, either produced directly by our tenants themselves or as sub-leased for industrial hemp production on county owned property by any third party, the county (landlord) will require:***

- 1.) The tenants provide a certified letter (*or copy of a signed contract*) with their contractor / buyer detailing the terms and conditions of their agreement with said contractor and which also lists the contractors / buyers good standing and experience with industrial hemp in the State of Colorado to ensure that we are only dealing with reputable third parties.
- 2.) Detail any specific production practices that will be required of the tenants or the persons producing the crop, so we can avoid, restrict or limit any practices that we feel would be detrimental to our open space values and policies.
- 3.) As with any sub-lease, the tenants will first need to be in good standing in terms of past rents, possessory interest taxes and in full compliance with all lease terms and conditions, ***before*** we will agree to sub-lease arrangements with any third party.

Regardless of rental rates, the county will ***require*** a signed standardized addendum be attached to any lease and existing operating plans to address the specific location and acreage of hemp cultivation and to address the longer-term implications of rotations, (*i.e. removal of plastic mulch, volunteer plants, etc.* ***prior*** to planting of industrial hemp seeds or transplanting seedling plants on open space land.

We anticipate that such a standardized lease addendum containing these and other industrial hemp specific requirements will be made available on or before the end of 2019, including final adjustments to 2020 rental rates. **Given the steady down trend in prices paid for the crop, we can confirm the final rental rates will not exceed what is proposed in this letter and they may be substantially less depending on the prevailing market conditions at the end of 2019.**

The intent of providing this information to our valued tenant stewards now, is so they have a more informed basis for considering and negotiating terms for growing this new crop.

Sincerely,

***Blake Cooper,***

Agricultural Resources Division Manager