

"2021 Amendments to the Apache Junction City Code, Volume II, Land Development Code, Chapter 1: Zoning Ordinance, Article 1-6: Supplemental Regulations, § 1-6-12, Medical and Recreational Marijuana"

## **1-6-12 MEDICAL AND RECREATIONAL MARIJUANA**

### **A. Medical Marijuana:**

1. Permit Required. A CUP shall be required for the establishment of nonprofit medical marijuana facilities, including dispensaries, cultivation facilities, and infusion facilities. The requirements of this section, for the establishment of a nonprofit medical marijuana use, may also be accomplished through a planned development ("PD") rezoning process or PD major amendment process.
2. Number of Facilities Allowed in City. The total number of nonprofit medical marijuana dispensaries, cultivation facilities, and infusion facilities shall be as allowed by state statute for the Apache Junction Community Health Analysis Area ("CHAA"). (See A.R.S. Title 36, Chapter 28.1 Arizona Medical Marijuana Act, for definitions and statutes pertaining to medical marijuana.)
3. Allowed Zoning Districts.
  - a) Location of nonprofit medical marijuana dispensaries shall be allowed in the city's B-1, B-2, B-4 and B-5 zoning districts.
  - b) Location of a cultivation facility and/or a stand-alone nonprofit medical marijuana infusion facility which serves one or more nonprofit medical marijuana dispensaries shall be limited to the city's B-5 zoning district.
  - c) An existing medical marijuana facility that has received **CUP** ~~a conditional use permit~~ approval from the city prior to the effective date of this ordinance, shall be allowed to continue operating at the approved location, regardless of any newly defined spacing requirements; and as long as said operation remains in strict accordance with the conditions of approval of said facility, or as

may otherwise be approved by a CUP amendment or renewal.

4. An existing medical marijuana establishment that intends to become a dual licensee to sell recreational marijuana shall present proof of dual licensee status to the city's business license office; and

- a) Is permitted by the State of Arizona to operate both a nonprofit medical marijuana dispensary and a marijuana establishment at a shared location; and

- b) Has not terminated its status as a dual licensee with the Arizona Department of Health Services ("ADHS") by forfeiting either its marijuana establishment license or non-profit medical marijuana dispensary registration.

5. Facility Security. Medical marijuana dispensaries, cultivation facilities, and infusion facilities shall be located in ~~an~~ a fully enclosed locked facility, ~~such as a~~ to include only a permanent ~~secure~~ building (walls and a roof) and not in a cargo container, RV, trailer, or motor vehicle. If a green house is used as a cultivation facility, reasonable measures shall be taken to obscure the visibility of the marijuana plants from outside the building.

6. Applications. A CUP application for medical marijuana dispensaries, cultivation facilities or infusion facilities shall include all the information required on the CUP application form and the following supplemental information:

- a) Signature and consent on the application form by the property owner of record that he or she is aware the property will be used for medical marijuana dispensing, cultivating or infusion.

- b) A copy of the preliminary approval from the ADHS ~~State Department of Health Services ("DHS")~~, such as a registration certificate, for the nonprofit medical marijuana dispensary, nonprofit medical marijuana dispensary off-site cultivation facility or stand-alone nonprofit medical

marijuana infusion facility, or dual licensee and a written assurance that all nonprofit medical marijuana dispensary agents associated with the approved facility shall register with the Apache Junction Police Department upon final approval to operate from ADHS, as well as a copy of said final approval document.

- c) Application and all applicable fees paid as required by Apache Junction City Code, Volume I; Chapter 8, Business, and the Apache Junction City Tax Code as amended.
- d) A detailed site plan and floor plan for the facility prepared in accordance with Section 1-16-9, and narrative explaining the operation of the facility and hours of operation.

7. Conditions of Approval. The conditions of approval which may be considered by the planning and zoning commission in evaluating these requests include the following:

a) Required Spacing Requirements:

- i. A minimum of 1,320 feet between another dispensary, cultivation facility or infusion facility, as measured from nearest building wall to nearest building wall.
- ii. A minimum of 750 feet between a dispensary, cultivation facility or infusion facility and any public or private education institution (inclusive of public or private charter schools), library, public park, commercial-zoned day care facility, free-standing church, ~~or~~ drug and/or alcohol rehabilitation center, or group home, as measured from nearest building wall of the business to the nearest building wall of the protected use.

8. Operating Requirements:

- a) Drive-through pickup windows shall not be allowed. Delivery service shall be allowed as per state statute.

- b) Outdoor seating areas at dispensaries, cultivation facilities or infusion facilities shall not be allowed.
- c) A medical marijuana facility shall submit a security plan containing the following information:
  - i. Proof that any cultivation and storage of medical marijuana will take place in an "enclosed locked facility (with walls and a roof and not a manufactured or factory built building or cargo container)" equipped with locks or other security devices that permit access only by persons authorized to enter pursuant to state and local law.
  - ii. A floor plan that details the security measures required by state law, including an on-site alarm system, video surveillance devices and a single secure entrance.
  - iii. ~~Additional protections, if any,~~ Explanation, narrative, or protocols against medical marijuana diversion and theft.
  - iv. Provide and continuously update as needed a current list of all persons who are authorized to access the dispensary, off-site cultivation site or infusion facility.
- d) On-site consumption of medical marijuana at a dispensary, cultivation facility or infusion facility shall not be allowed.
- e) ~~Dispensaries selling marijuana related products such as pipes, water pipes, rolling paper, screens, vaporizers, mills, concealing devices, etc., shall be restricted to selling only to patients displaying the required Arizona Department of Health Services medical marijuana card and to be used only in conjunction with a physician's certification or recommendation. Cookbooks and educational materials are excepted from this provision.~~

- f) The size of facility in terms of square footage, building height or other factors shall be consistent with the character of existing or planned surrounding development.
  - g) Signage that will be visible from the exterior of the facility may be approved by the city if all sign code regulations have been met. The use of the marijuana leaf symbol shall not be allowed on any exterior signage.
9. Other Conditions. The planning and zoning commission may deem it necessary to apply other conditions to conserve and promote the public health, safety, convenience and general welfare, including:
- a) Compliance with all city-adopted zoning, landscaping, engineering, building, design guidelines, overlay district and/or planned development district requirements.
  - b) The commission shall reserve the right to revoke a CUP for noncompliance with any condition prescribed as part of the permit approval or if the use is demonstrated to be a nuisance or hazard to the neighborhood or community.
  - c) Hours of operation will be addressed through the CUP process.
  - d) Allowing and accommodating unannounced inspections by law enforcement officials at any time the facility is occupied and/or operating, emergency contact information, alarm permit and other items for the reasonable, transparent and safe operation of the facility.
10. Medical Marijuana Patient Home Cultivation. In the event that a qualifying **patient** residing in the city lives 25 miles or farther from a dispensary, said individual or his or her designated caregiver may cultivate no more than 12 marijuana plants at the place of primary residence (including a manufactured home or a recreational vehicle) of the qualifying patient, with owner's permission, without need to apply for a CUP. However, said individual or his or her designated caregiver shall apply the same types of

precautions as above for security, use, documentation and must advise the chief of police of his or her intent to cultivate marijuana at home. At such time as a dispensary is located within 25 miles from the qualifying patient's home, all cultivation of marijuana plants in the home must cease or shall be considered a zoning violation, among other possible local, state and federal law violations. Any change in residence location shall be reported to the chief of police within 30 days.

11. Medical Marijuana Caregiver Home Cultivation. In the event that a designated caregiver whose residence is in the city limits is cultivating marijuana for the qualifying patient or patients in his or her care, and whose qualifying patient or patients in his or her care live 25 miles or farther from a dispensary, said designated caregiver may cultivate no more than 12 marijuana plants per patient at the place of primary residency of the designated caregiver (including a manufactured home or a recreational vehicle), with homeowner's permission, without need to apply for a CUP. However, said designated caregiver shall apply the same types of precautions as above for security, use, documentation and must advise the chief of police of his or her intent to cultivate marijuana at home for the benefit of his or her qualifying patient or patients. At such time as a dispensary is located within 25 miles from the qualified patient or patients home, all cultivation of marijuana plants in the home must cease or shall be considered a zoning violation, among other possible local, state and federal law violations. Any change in residence location shall be reported to the chief of police within 30 days.

## B. Recreational Marijuana

1. All provisions in this section are pursuant to A.R.S. Title 36, Chapter 28.2 Responsible Adult Use of Marijuana.
2. Permit Required. A CUP shall be required for the establishment of recreational marijuana establishments. The requirements of this section, for the establishment of a marijuana use, may also be accomplished through a planned development ("PD") rezoning process or PD major amendment process.

3. Allowed Zoning Districts. Location of marijuana establishments shall be allowed in the city's B-1, B-2, B-3 and B-4 zoning districts.

4. Facility Security. Recreational marijuana establishments shall be located in a fully enclosed locked facility, to include only a permanent building (walls and a roof) and not in a cargo container, RV, trailer, or motor vehicle.

5. Applications. A CUP application for recreational marijuana establishments shall include all the information required on the CUP application form and the following supplemental information:

- a) Signature and consent on the application form by the property owner of record that he or she is aware the property will be used for a recreational marijuana establishment.
- b) A copy of the preliminary approval from the Arizona Department of Health Services ("ADHS"), such as a registration certificate, for a marijuana establishment, and a written assurance that all marijuana establishment agents associated with the approved facility shall register with the Apache Junction Police Department upon final approval to operate from ADHS, as well as a copy of said final approval document.
- c) Application and all applicable fees paid as required by Apache Junction City Code, Volume I; Chapter 8, Business, and the Apache Junction City Tax Code as amended.
- d) A detailed site plan and floor plan for the facility prepared in accordance with Section 1-16-9, and narrative explaining the operation of the facility and hours of operation.

6. Conditions of Approval. The conditions of approval which may be considered by the planning and zoning

commission in evaluating these requests include the following:

a) Required Spacing Requirements:

i. A minimum of 1,320 feet between another medical marijuana use (inclusive of dual licensee facilities) or recreational marijuana establishment as measured from nearest building wall to nearest building wall.

ii. A minimum of 750 feet between another medical marijuana use (inclusive of dual licensee facilities) or recreational marijuana establishment and any public or private education institution (inclusive of public and private charter schools), library, public park, commercial-zoned day care facility, free-standing church, drug and/or alcohol rehabilitation center, or group home as measured from nearest building wall of the business to the nearest building wall of the protected use.

7. Operating Requirements:

a) Drive-through pickup windows shall not be allowed, but delivery service shall be allowed as per state statute.

b) Outdoor seating areas at recreational establishments shall not be allowed.

c) A recreational marijuana facility shall submit a security plan containing the following information:

i. Proof that any cultivation and storage of marijuana will take place in an "enclosed, locked facility (with walls and a roof and not a manufactured or factory built building or cargo container)" equipped with locks or other security devices that permit access only by persons authorized to enter pursuant to state and local law.



ii. A floor plan that details the security measures required by state law, including an on-site alarm system, video surveillance devices and a single secure entrance.

iii. Explanation, narrative, or protocols against marijuana diversion and theft.

iv. Provide and continuously update as needed a current list of all persons who are authorized to access the establishment.

d) On-site consumption of marijuana establishment shall not be allowed.

e) The size of facility in terms of square footage, building height or other factors shall be consistent with the character of existing or planned surrounding development.

f) Signage that will be visible from the exterior of the facility may be approved by the city if all sign code regulations have been met. The use of the marijuana leaf symbol shall not be allowed on any exterior signage.

8. Other Conditions. The planning and zoning commission may deem it necessary to apply other conditions to conserve and promote the public health, safety, convenience and general welfare, including:

a) Compliance with all city-adopted zoning, landscaping, engineering, building, design guidelines, overlay district and/or planned development district requirements.

b) The commission shall reserve the right to revoke a CUP for noncompliance with any condition prescribed as part of the permit approval or if the use is demonstrated to be a nuisance or hazard to the neighborhood or community.

c) Hours of operation will be addressed through the CUP process.

d) Allowing and accommodating unannounced inspections by law enforcement officials at any time the facility is occupied and/or operating, emergency contact information, alarm permit and other items for the reasonable, transparent and safe operation of the facility.

9. The operation of a recreational marijuana testing facility is prohibited.

10. The commercial cultivation and processing of recreational marijuana as a standalone use is prohibited.

11. Home Cultivation.

a) It shall be unlawful for any individual who is at least twenty-one (21) years of age to possess, transport, cultivate or process more than six (6) marijuana plants.

b) It shall be unlawful for two or more individuals who are at least twenty-one (21) years of age to possess, transport, cultivate or process more than twelve (12) marijuana plants at the individuals' primary residence.

c) Except as provided by A.R.S §36-2801 et al. and this Section, it shall be unlawful for an individual to otherwise cultivate marijuana in a residential zoning district within Apache Junction.

d) Individuals shall not process or manufacture marijuana by means of any liquid or gas other than alcohol, that has a flashpoint below one hundred (100) degrees Fahrenheit.

e) Kitchen, bathrooms, and primary bedroom(s) shall be used for their intended use and shall not be used primarily for residential marijuana processing, manufacturing, or cultivation.

f) A residence shall not emit dust, fumes, vapors, or odors into the environment and individuals shall ensure that ventilation, air filtration,

building and design standards are compatible with adjacent uses and the requirement of adopted building codes of Apache Junction.

- g) Cultivation shall be limited to a closet, room, greenhouse, or other enclosed area on the grounds of the residence equipped with a lock or other security device that prevents access by minors.
- h) Cultivation shall take place in an area where the marijuana plants are not visible from public view without using binoculars, aircraft, or other optical aids.
- i) Cultivation as part of a home based occupation is not allowed.