



# *City of Apache Junction*

## *Development Services Department*



### **PLANNING AND ZONING COMMISSION PUBLIC HEARING STAFF REPORT**

**DATE:** March 23, 2021

**CASE NUMBER:** AM-1-20

**REQUEST:** Presentation, discussion and consideration on proposed Text Amendment to the Apache Junction City Code, Volume II, Land Development Code, Chapter 1: Zoning Ordinance, Article 1-6: Supplemental Regulations, Section 1-6-12, Medical Marijuana; Section 1-5-3 Non-Residential Use Regulations; and Article 1-17: Definitions.

#### **BACKGROUND**

On November 3, 2020, as part of the general election, the voters of Arizona passed the "Smart and Safe Arizona Act", a citizen initiative....." relating to the responsible adult use, regulation and taxation of marijuana", also referred to as recreational marijuana.

On December 1, 2020, the City Council directed Planning Staff to amend the Zoning Text that addresses the medical marijuana criteria to include recreational marijuana, as follows:  
"Councilmember Rizzi moved, seconded by Mayor Serdy to direct staff to allow existing dispensaries to become dual licensees: require CUP amendment process, operate under the same rules as existing dispensaries, allow recreational marijuana sales too, but no cultivation or processing, allow medical marijuana to convert to recreational marijuana through CUP amendment, the code to still allow for medical marijuana cultivation and infusion kitchens. Councilmember Evans motioned to add on to Councilmember Rizzi's motion that marijuana be treated like retail and liquor stores in the B-1, B-2 and B-3 zones."

At a work session on February 23, 2021, the Planning and Zoning Commission was presented with two text change options regarding

the integration of recreational marijuana into the existing medical marijuana regulations.

Version 1 allowed dual licensee facilities with the city, but did not allow new standalone recreational marijuana establishments or recreational marijuana testing facilities. Version 2 allowed standalone recreational marijuana establishments in the B-1, B-2 and B-3 zoning district, did not allow recreational marijuana testing facilities, and imposed the same regulations as existing medical marijuana dispensaries.

The Planning and Zoning Commission recommended that staff move forward with Version 2, provided that recreational marijuana establishments were treated the same as existing medical marijuana dispensaries, including the spacing requirements.

### **PROPOSAL**

The draft amendments are being presented to the planning and zoning commission for their recommendation to the city council. The proposed text amendment is case AM-1-20, a request to amend the medical marijuana regulations to include recreational marijuana.

#### **Revised Section 1-6-12 Medical and Recreational Marijuana:**

##### **- Medical Marijuana Criteria:**

- o All regulations for medical marijuana facilities are to remain the same. Minor text changes have been made for clarification.
- o The addition of regulations surrounding dual licensees has been added to the medical marijuana regulations.

##### **- Recreational Marijuana Criteria:**

- o Recreational marijuana establishments will be treated in the same manner as medical marijuana facilities.
- o Regulations include the home cultivation of recreational marijuana for individuals 21 years of age or older.

#### **Section 1-5-2 Non-Residential Use Regulations**

- Table 1-5-2 will be revised to include provisions regarding recreational marijuana.

## **Article 1-17: Definitions**

- Definitions within this article will be revised to reflect the words and phrases that are described in the newly amended medical and recreational marijuana regulations.

## **PLANNING DIVISION RECOMMENDATION**

Planning staff recommends approval of the proposed text amendment and offers the following recommended motion to update the Apache Junction City Code, Volume II, Land Development Code, Chapter 1: Zoning Ordinance, Article 1-6: Supplemental Regulations, Section 1-6-12, Medical Marijuana, Section 1-5-3 Non-Residential Use Regulations, and Article 1-17: Definitions to include regulations regarding recreational marijuana.

## **RECOMMENDED MOTION**

I move that the Planning and Zoning Commission recommend to the Apache Junction City Council the (APPROVAL/DENIAL) of text amendment case AM-1-20, an amendment to the Apache Junction City Code, Volume II, Land Development Code, Chapter 1: Zoning Ordinance, Article 1-6: Supplemental Regulations, Section 1-6-12, Medical Marijuana; Section 1-5-3 Non-Residential Use Regulations; and Article 1-17: Definitions described in the attached text exhibits dated March 17, 2021.

Kelsey Schattnik

Prepared by Kelsey Schattnik  
Planner

### Attachments:

Exhibit #1 - Revised Medical Marijuana Ordinance ("Clean"  
Version 2)\_(March 17, 2021)

Exhibit #2 - Revised Medical Marijuana Ordinance ("Marked-up"  
Version 2)\_(March 17, 2021)

Exhibit #3 - Revised Section 1-5-3 Non-Residential Use Regulations and  
Article 1-17 Definitions (March 17, 2021)

Exhibit #4 - Revised Medical Marijuana Ordinance (Version 1)\_(  
(Presented to Planning and Zoning Commission on February 23, 2021)

CITY OF APACHE JUNCTION MARIJUANA REGULATIONS (Version 2)  
March 17, 2021

**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 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 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. 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, 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, 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. 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) 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.

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.
3. 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.
4. 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

designated caregiver'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.

#### 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.

## CITY OF APACHE JUNCTION MARIJUANA REGULATIONS (Version 2)

March 17, 2021

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

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

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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.

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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.

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  - 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.
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- 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.
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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.

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- 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.

CITY OF APACHE JUNCTION MARIJUANA REGULATIONS (Version 1)  
February 23, 2021

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

- A. Permit Required. A CUP shall be required for the establishment of nonprofit medical marijuana ~~facilities, including~~ dispensaries, cultivation facilities, and infusion facilities, and recreational marijuana establishments. The requirements of this section, for the establishment of a nonprofit medical and/or recreational marijuana use, may also be accomplished through a planned development ("PD") rezoning process or PD major amendment process.
- B. Number of Medical Marijuana 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.)
- C. Allowed Zoning Districts.
- 1) Location of nonprofit medical and/or recreational marijuana establishments ~~dispensaries~~ shall be allowed in the city's B-1, B-2, B-4 and B-5 zoning districts subject to a CUP or PD rezoning process.
  - 2) 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.
  - 3) An existing medical marijuana establishment ~~facility~~ that has received a CUP ~~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) The operation of a recreational marijuana testing facility is prohibited.

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

D. Facility Security. Medical marijuana dispensaries, cultivation facilities, and infusion facilities, and recreational marijuana establishments 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.

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

1. 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, or recreational marijuana.
2. 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, 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.
3. 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.
4. 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.

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

1. Required Spacing Requirements:
  - a. A minimum of 1,320 feet between another medical marijuana dispensary, cultivation facility or infusion facility, or recreational marijuana establishment as measured from nearest building wall to nearest building wall.

- b. A minimum of 750 feet between a **medical marijuana** dispensary, cultivation facility, ~~or~~ infusion facility, **or recreational marijuana establishment** 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.

2. 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 **medical marijuana** dispensaries, cultivation facilities or infusion facilities, **or recreational medical establishment** shall not be allowed.
- c. A medical marijuana facility **or recreational marijuana establishment** shall submit a security plan containing the following information:
  - i. Proof that any cultivation and storage of ~~medical~~ **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~~ **medical** marijuana diversion and theft.
  - iv. Provide and **continuously** update as needed a current list of all persons who are authorized to access the **establishment**, dispensary, off-site cultivation site or infusion facility.
- d. On-site consumption of ~~medical~~ **medical** marijuana **and/or marijuana products** at a **marijuana establishment**, 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.
3. 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.
4. 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.
5. 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 designated caregiver'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

6. Recreational Marijuana 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.

**March 17, 2021**

The Apache Junction City Code, Volume II, Land Development Code, Chapter 1: Zoning Ordinance, shall be amended as follows:

Section 1-5-3 Non-Residential Use Regulations, Table 5-3 Non-Residential Use Regulations, shall be amended with the addition of “Recreational Marijuana Establishments” under use category “Retail Trade”:

Use Category	Specific Use Type <sup>1</sup>	B-1 Gen.	B-2 Old West	B-3 City Cen.	B-4 <sup>4</sup> Bus Park	B-5 <sup>4</sup> Ind.	PI Pub/Inst.
Retail Trade (NAICS Code 44-45)	Medical Marijuana Facilities	CUP	CUP	CUP	CUP	CUP	NO
	Recreational Marijuana Establishments	CUP	CUP	CUP	CUP	NO	NO
	Swap Meets and Farmers Markets	CUP	CUP	CUP	CUP	NO	CUP

ARTICLE 1-17 DEFINITIONS, shall be amended with the addition of the following:

**Recreational Marijuana Uses:**

- a. **Chemical Extraction.** The process of removing a particular component of a mixture from others present, including removing resinous tetrahydrocannabinol from marijuana.
- b. **Chemical Synthesis.** Production of a new particular molecule by adding to, subtracting from, or changing the structure of a precursor molecule.
- c. **City.** The City of Apache Junction.
- d. **Consume, Consuming, and Consumption.** The act of ingesting, inhaling or otherwise introducing marijuana into the human body, including the inhaling or exhaling of smoke or vapor from an electronic device that can be used to deliver marijuana or marijuana products to a person, including, but not limited to, an electronic or vaping cigarette, equipment, or pipe.
- e. **Consumer.** An individual who is at least twenty-one years of age and who purchases marijuana or marijuana products.
- f. **Cultivate and Cultivation.** To propagate, breed, grow, prepare and package marijuana.
- g. **Deliver and Delivery.** The transportation, transfer or provision of marijuana or marijuana products to a consumer at a location other than the designated retail location of a marijuana establishment.

- h. **Department.** The State of Arizona Department of Health Services or its successor agency.
- i. **Dual Licensee.** An entity that holds both a nonprofit medical marijuana dispensary registration and a marijuana establishment license.
- j. **Enclosed Area.** A building, greenhouse, or other structure that has:
  - i. A complete roof enclosure supported by connecting walls that are constructed of solid material extending from the ground to the roof;
  - ii. Is secure against unauthorized entry;
  - iii. Has a foundation, slab or equivalent base to which the floor is securely attached; and
  - iv. Meets performance standards ensuring that cultivation and processing activities cannot be and are not perceptible from the structure in terms of not being visible from public view without using binoculars, aircraft or other optical aids and is equipped with a lock or other security device that prevents access by minors
- k. **Extraction.** The process of extracting or separating resin from marijuana to produce or process any form of marijuana concentrates using water, lipids, gases, solvents, or other chemicals or chemical processes.
- l. **Manufacture and Manufacturing.** To compound, blend, extract, infuse or otherwise make or prepare a marijuana product.
- m. **Marijuana.** All parts of the plant of the genus cannabis, whether growing or not, as well as the seeds from the plant, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds or resin; and includes cannabis as defined in A.R.S. § 13-3401; but does not include industrial hemp, the fiber produced from the stalks of the plant of the genus cannabis, oil or cake made from the seeds of the plant, sterilized seeds of the plant that are incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.
- n. **Marijuana Concentrate:**
  - i. Resin extracted from any part of a plant of the genus cannabis and every compound, manufacture, salt, derivative, mixture or preparation of that resin or tetrahydrocannabinol.
  - ii. Does not include industrial hemp or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink or other products.

- o. **Marijuana Establishment.** An entity licensed by the Department to operate a single retail location at which the licensee may sell marijuana and marijuana products to consumers, cultivate marijuana and manufacture marijuana products.
- p. **Marijuana Products.** Marijuana concentrate and products that are composed of marijuana and other ingredients and that are intended for use or consumption, including edible products, ointments, and tinctures.
- q. **Marijuana Testing Facility.** The Department or another entity that is licensed by the Department to analyze the potency of marijuana and test marijuana for harmful contaminants.
- r. **Nonprofit Medical Marijuana Dispensary.** A nonprofit entity as defined in A.R.S. § 36-2801(12).
- s. **Open Space.** A public park, public sidewalk, public walkway or public pedestrian thoroughfare.
- t. **Person.** An individual, partnership, corporation, association, or any other entity of whatever kind or nature.
- u. **Process and Processing.** To harvest, dry, cure, trim or separate parts of the marijuana plant.
- v. **Public Place.** The same meaning prescribed in the Smoke-Free-Arizona Act, A.R.S. § 36-601.01.
- w. **Smoke.** To inhale, exhale, burn, carry or possess any lighted marijuana or lighted marijuana products, whether natural or synthetic