

SECTION 308. MARIJUANA AND MEDICAL MARIJUANA FACILITIES.

A. **PURPOSE.** The purpose of this Section is to implement the Arizona Medical Marijuana Act (A.R.S. § 36-2801, *et seq.*), and the “Smart and Safe Arizona Act, to regulate the locations and operations of medical marijuana dispensaries, related cultivation and processing uses, and retail sale, cultivation and manufacturing of marijuana in the City of Cottonwood. This article is adopted so as to promote and protect the public health, safety and welfare of the residents of Cottonwood. It is neither the intent nor the effect of this chapter to condone or legitimize the use, possession, sale, cultivation, manufacture, transport, production, or distribution of marijuana except as allowed by Arizona law. Further, the purpose of this section is to:

1. Provide for the safe sale and distribution of medical marijuana to patients who qualify to obtain, possess and use marijuana for medical purposes under the Arizona Medical Marijuana Act and as managed through the Arizona Department of Health Services.
2. Protect public health and safety through reasonable limitations on business operations as they relate to noise, air and water quality, food safety, building safety, neighborhood and patient safety, security for the business and its personnel and other health and safety concerns.
3. Adopt a mechanism for monitoring compliance with the provisions of this Section.
4. Create regulations that address the particular needs of the patients and residents of the City and coordinate with rules and regulations that may be enacted by the state regarding the issue.
5. Facilitate the implementation of the Arizona Medical Marijuana Act without going beyond the authority granted by it.

B. **DEFINITIONS.** The definitions contained in the Arizona Medical Marijuana Act (A.R.S. § 36-2801, *et seq.*) shall serve as the primary guide for the enforcement and practices of all such related activities. In addition, definitions contained herein are intended to further assist with the enforcement of this Ordinance, as follows:

1. **CHEMICAL EXTRACTION-** The process of removing a particular component of a mixture from others present, including removing resinous tetrahydrocannabinol from marijuana.
2. **CHEMICAL SYNTHESIS-** Production of a new particular molecule by adding to, subtracting from, or changing the structure of a precursor molecule.

3. CONSUME, CONSUMING AND CONSUMPTION- The act of ingesting, inhaling or otherwise introducing marijuana into the human body.
4. CONSUMER- An individual who is at least twenty-one years of age and who purchases marijuana or marijuana products.
5. CULTIVATE AND CULTIVATION- To propagate, breed, grow, prepare and package marijuana.
6. DELIVER AND DELIVERY- The transportation, transfer or provision of marijuana or marijuana products to a consumer at a location other than the location where the marijuana was cultivated, manufactured, or processed.
7. DHS/DEPARTMENT- The Arizona Department of Health Services or its successor agency.
8. DISPENSARY AGENT- A medical marijuana dispensary director, officer, employee or volunteer who has been issued a valid registry identification card by the DHS.
9. DUAL LICENSEE- An entity that holds both a nonprofit medical marijuana dispensary registration and a marijuana establishment license.
10. ENCLOSED AREA- A building, greenhouse, or other structure that has:
 - a. A complete roof enclosure supported by connecting walls that are constructed of a solid material extending from the ground to the roof;
 - b. Is secure against unauthorized entry;
 - c. Has a foundation, slab or equivalent base to which the floor is securely attached; and
 - d. 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 aides and is equipped with a lock or other security device that prevents access by minors.
11. 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.

12. MANUFACTURE AND MANUFACTURING- To compound, blend, extract, infuse or otherwise make or prepare a marijuana product.

13. MARIJUANA-

- a. 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.
- b. Includes cannabis as defined in A.R.S. § 13-3401.
- c. 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 marijuana to prepare topical or oral administrations, food, drink or other products.

14. MARIJUANA CONCENTRATE-

- a. Resin extracted from any part of the plant of the genus cannabis and every compound, manufacture, salt derivative, mixture or preparation of that resin or tetrahydrocannabinol.
- b. Does not include industrial hemp or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, feed, drink or other products.

15. MARIJUANA ESTABLISHMENT- An entity licensed by the Department to operate all of the following:

- a. A single retail location at which the licensee may sell marijuana and marijuana products to consumers, cultivate marijuana and manufacture marijuana products.
- b. A single off-site cultivation location at which the licensee may cultivate marijuana, process marijuana and manufacture marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.
- c. A single off-site location at which the licensee may manufacture marijuana and marijuana products and package and store marijuana

products, but from which marijuana and marijuana products may not be transferred or sold to consumers.

16. 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.
17. 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.
18. MEDICAL MARIJUANA- All parts of the genus cannabis whether growing or not, and the seeds of such plants that may be administered to treat or alleviate a qualifying patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition.
19. MEDICAL MARIJUANA CULTIVATION FACILITY- A building or structure and the associated premises used to grow the marijuana plant, which may include accessory storage and processing of medical marijuana grown on premises.
20. MEDICAL MARIJUANA DISPENSARY- A non-profit entity defined in Arizona Revised Statutes § 36-2801, *et seq.*, that sells, distributes, transmits, gives, dispenses, or otherwise provides medical marijuana to qualifying patients.
21. MEDICAL MARIJUANA FACILITY- A medical marijuana dispensary, cultivation facility, qualified patient or designated patient or caregiver cultivation facility, infusion or manufacturing facility, or similar operations or any combination thereof, as authorized by law.
22. MEDICAL MARIJUANA INFUSION (MANUFACTURING) FACILITY- A facility that incorporates medical marijuana (cannabis) by means of cooking, blending, or incorporation into consumable/edible goods or similar products.
23. MEDICAL MARIJUANA QUALIFYING PATIENT- A person who has been diagnosed by a physician as having a debilitating medical condition as defined in Arizona Revised Statutes; and who has been issued a Registry Identification Card by DHS authorizing him/her to use marijuana to treat his/her debilitating medical condition or symptoms associated with the debilitating medical condition.
24. MEDICAL MARIJUANA QUALIFYING PATIENT CULTIVATION FACILITY- Enclosed, locked facilities approved for the cultivation of medical marijuana plants by registered qualifying patients of their designated caregivers

where a registered nonprofit medical marijuana dispensary is not operating within twenty-five miles of the qualifying patient's home.

25. OPEN SPACE- A public park, public sidewalk, public walkway or public pedestrian thoroughfare.
26. OPERATOR- The chief executive officer of the medical marijuana dispensary, whether referred to as the principal officers, board members, designated agents, executive director, president, CEO or other designation.
27. PERSON- An individual, partnership, corporation, association, or any other entity of whatever kind or nature.
28. PROCESS AND PROCESSING- To harvest, dry, cure, trim or separate parts of the marijuana plant.
29. PUBLIC PLACE- The same meaning as prescribed in the Smoke-Free-Arizona Act, A.R.S. § 36-601.01.
30. SCHOOL- Public and private educational and child development facilities certified by the State of Arizona, including a daycare facility, preschool, kindergarten, elementary school, middle school or high school.
31. SMOKE- To inhale, exhale, burn, carry or possess any lighted marijuana or lighted marijuana products, whether natural or synthetic.

C. REQUIREMENTS FOR THE ESTABLISHMENT OF MEDICAL MARIJUANA FACILITIES.

1. General Requirements. The establishment of medical marijuana dispensaries, cultivation sites and other related facilities shall be subject to the provisions of the Arizona Medical Marijuana Act as described in Arizona Revised Statutes, Title 36 and any associated rules subsequently enacted by the Arizona Department of Health Services or the City of Cottonwood for the implementation the Act, including but not limited to, authorization of and registration of dispensaries and cultivation facilities, registration of qualifying patients and designated caregivers, review and inspection of facilities and security measures, and other standards and procedures expressed in the Act for similar purposes. The regulations in this Ordinance are intended to allow the uses authorized under state law to the extent permissible while ensuring such uses are established in a reasonable manner to protect the health, safety and general welfare of the residents of the City of Cottonwood.

2. Medical Marijuana Dispensary.

- a.Registration with the City of Cottonwood is required for a Medical Marijuana Dispensary, as described in this Ordinance.
- b.A medical marijuana dispensary facility shall be a Permitted Use in the C-1 (Light Commercial), C-2 (Heavy Commercial), and I-2 (Heavy Industrial) Zoning Districts, subject to meeting required development standards.
- c.A dispensary may be located in association with the cultivation facility in the I-2 Zoning District subject to obtaining a Conditional Use Permit, as per Section 302 of this Ordinance.
- d.The dispensary sales area that may be accessed by the patients or the public shall be limited to the distribution and sales of medical marijuana and related information and products for qualifying patients. There shall be no other retail or health care services provided from the dispensary sales area nor shall access to such services be provided from the dispensary sales area.
- e.The dispensary shall be located in a permanent building and may not be located in a temporary structure, trailer, cargo container, motor vehicle or other similar non-permanent enclosure.
- f.Dispensary Entrance. A dispensary may have more than one means of egress from the interior so as to meet building codes and public safety concerns; however, it shall have a single secure public entrance and shall implement appropriate security measures to deter and prevent the theft of marijuana and unauthorized entrance into areas containing marijuana. The dispensary entrance shall be located and maintained clear of barriers, landscaping and similar obstructions that may block the view so that the entrance and pedestrian access is clearly visible from the public street, sidewalk and parking area.
- g.Parking. A dispensary shall provide on-site parking or parking immediately adjacent to the building used as the dispensary.
- h.Minimum Separation Requirements. Medical marijuana dispensary and cultivation facilities shall not be located within five-hundred (500) feet of the exterior property lines of a public or private school, including a daycare facility or preschool, kindergarten, elementary school, middle school or high school.

i. Method for Computing Measurement. For the purpose of calculating the separation requirements, the distance shall be measured from the closest portion of the exterior surface of the wall of the building in which the medical marijuana is to be dispensed, cultivated or processed to the nearest point of the property line of the use requiring a minimum separation.

j. Operating hours shall not be earlier than 7:00 a.m. and not later than 10:00 p.m.

k. Drive-through services are prohibited.

3. Medical Marijuana Cultivation Facilities and Medical Marijuana Infusion Facilities.

a. Registration with the City of Cottonwood is required for Medical Marijuana Cultivation Facilities and Medical Marijuana Infusion Facilities, as described in this Ordinance.

b. A medical marijuana cultivation facility, whether separate or combined with an authorized medical marijuana dispensary and/or infusion facility, shall be allowed in the I-2 (Heavy Industrial) Zoning District subject to obtaining a Conditional Use Permit, as per Section 302 of this Ordinance.

c. Medical marijuana infusion facilities shall be allowed as a permitted use in the I-2 (Heavy Industrial) Zoning District, subject to meeting required development standards.

d. Medical marijuana infusion facilities shall be permitted as an accessory use with an approved medical marijuana dispensary.

e. Minimum Separation Requirements:

1) Medical marijuana cultivation facilities or infusion facilities shall not be located within five-hundred (500) feet of the exterior property lines of a school, including a daycare facility or preschool, kindergarten, elementary school, middle school or high school.

f. Method for Computing Measurement. For the purposes of calculating the separation requirements, the distance shall be measured from the closest portion of the exterior surface of the wall of the building in which the

medical marijuana is to be dispensed, cultivated or processed to the nearest point of the property line of the use requiring a minimum separation.

g. Retail sales of medical marijuana shall be prohibited from a medical marijuana cultivation facility or infusion facility; however, a separate authorized dispensary may be located at the same site subject to the development standards described in this Ordinance.

h. There shall be no emission of dust, fumes, vapors, smoke or odors into the environment from that facility.

4. Medical Marijuana Qualifying Patient Cultivation and Medical Marijuana Designated Caregiver Cultivation.

a. Qualifying Patients or their Designated Caregivers may be authorized by the Arizona Department of Health Services to cultivate marijuana plants for the qualifying patient's medical use if a registered nonprofit medical marijuana dispensary is not operating within twenty-five (25) miles of the qualifying patient or designated caregiver's home. Such facilities within the City of Cottonwood shall be considered a permitted accessory use in all residential zoning districts provided the primary residence of the qualifying patient or designated caregiver is more than twenty-five (25) miles from an operating medical marijuana dispensary, as per the standards contained herein.

b. If the qualifying patient or designated caregiver is authorized to cultivate marijuana, there shall be no more than twelve (12) marijuana plants per patient contained in an enclosed, locked facility that permits access by the cardholder, as per the applicable sections of Arizona Revised Statutes and related rules established by DHS.

c. The cultivation facility may be in a closet, room, greenhouse or other enclosed area equipped with locks or other security devices that permit access only by the cardholder.

D. FACILITY REGISTRATION REQUIREMENTS.

Medical Marijuana Dispensary, Cultivation and Infusion Facilities; and Qualifying Patient or Designated Caregiver Home Grow Cultivation operations shall register the location of the facility with the City of Cottonwood and provide the following information:

1. Registration for Medical Marijuana Dispensary, Cultivation Facility and/or Infusion Facility. A medical marijuana dispensary, cultivation facility or infusion facility, or combined use; is required to register the location with the City of Cottonwood Community Development Department. The following information shall be provided with the registration:
 - a. The name, address, phone number, e-mail address and contact information for the property owner, operator, applicant and non-profit organization operating the facility;
 - b. The name, location, address and contact information for the operator of any off-site cultivation facility or facilities related to the dispensary;
 - c. A written narrative describing the use and facilities and how the location and improvements associated with the proposed facility comply with the requirements of this Ordinance;
 - d. A copy of the operating procedures submitted to and approved by DHS prepared in accordance with A.R.S. § 36-2804(B)(1)(c), including the required security plan for medical marijuana facilities;
 - e. An accurate vicinity map drawn to scale showing the location of the proposed medical marijuana dispensary, cultivation facility or infusion facility in relation to any school property boundary or cultivation and/or infusion facility boundary so as to document the required minimum separation requirement;
 - f. An accurate dimensioned site plan indicating buildings, building entrances, parking, sidewalks, adjacent streets and immediately surrounding uses;
 - g. A floor plan of the interior of the facility indicating public areas and secured areas. The floor plan for a dispensary should have a waiting area at the entrance to receive patients and as required by the Arizona Medical Marijuana Act, must have a separate enclosed, locked and secure area for dispensing medical marijuana to qualified patients or designated caregivers. Indicate the principal uses on the floor plan, including areas where non-patients will be permitted, private consulting areas, storage areas, retail areas and areas where medical marijuana will be dispensed, processed, cultivated and stored; and

c. Other Health Care Services: The dispensary may provide consultation regarding medical marijuana to qualifying patients and designated caregivers as per the rules and regulations established by DHS. The dispensary shall not provide other health care services or products unrelated to medical marijuana as part of the dispensary operations for the general public or qualifying patients.

3. Business Registration. A Medical Marijuana Dispensary, Cultivation Facility or Infusion Facility shall be required to obtain and maintain a valid Business Registration from the City of Cottonwood.
4. Suspension or Revocation of Business Registration. The City of Cottonwood business registration for medical marijuana use may be suspended or revoked for any of the following violations:
 - a. Misrepresentation or omission of any material fact, or false or misleading information, on the application or any amendment thereto, or any other information provided to the City related to the medical marijuana business;
 - b. The business registration shall be considered automatically revoked by the revocation, expiration or suspension of any required Conditional Use Permit for the medical marijuana facility and all such operations shall cease immediately.
5. Additional Licenses and Permits. The facility registration and business registration requirement set forth in this Section shall be in addition to, and not in lieu of, any other licensing, permitting or registration requirements imposed by any other federal, state or local jurisdiction, including, but not limited to, DHS approval, building permits, fire alarm permits, zoning approval, a state retail sales and use tax license, a retail food establishment license or any applicable health, safety, building or development license or permit.
6. Infusion (Manufacturing) facilities must obtain any and all permits and licenses from Yavapai County Health Department for all food handling and preparation in connection with infusion operations.
7. Security Plans. Pursuant to the Arizona Medical Marijuana Act, the DHS is responsible for promulgating regulations pertaining to dispensary security. A dispensary shall comply with DHS security requirements provided for adequate lighting, alarms, security cameras and locks in order to ensure the safety of persons and to protect the premises from theft. All security and alarm systems

shall be installed and operated in compliance with applicable City Cottonwood codes, ordinances and regulations.

8. Security Lighting. During all night time hours, dispensaries shall illuminate exterior areas of the premises, including related parking areas, sidewalks and building entrances so that all areas are readily visible. During all hours, the medical marijuana dispensary shall illuminate those areas of the interior of the building where the public has access, including that public entry, reception area, and counter area, as well as the interior hallways, other building ingress/egress locations and locations where medical marijuana may be located, stored or processed. All outdoor lighting shall be in compliance City of Cottonwood Zoning Ordinance, Section 408. Outdoor Lighting Code.

F. MARIJUANA PROHIBITED ON PUBLIC PROPERTY.

1. The use, sale cultivation. Manufacture, production or distribution of marijuana or marijuana products is prohibited on property that is occupied, owned, controlled or operated by the City of Cottonwood.
2. It is unlawful for an individual to smoke marijuana in a public place or open space in the City of Cottonwood.

G. MARIJUANA ESTABLISHMENT PROHIBITED; DUAL LICENSEE EXCEPTION.

1. To the fullest extend allowable by law, the operation of a marijuana establishment is not permitted in the City of Cottonwood, except where authorized for a dual licensee who:
 - a. Operated both a nonprofit medical marijuana dispensary and marijuana establishment cooperatively in a shared location; and
 - b. Has not forfeited or terminated the nonprofit medical marijuana dispensary registration from the Department.

H. MARIJUANA TESTING FACILITY PROHIBITED.

1. To the fullest extend allowable by law, the operation of a marijuana testing facility is not permitted in the City of Cottonwood.

I. MARIJUANA ESTABLISHMENT PERMITTED; NONRESIDENTIAL.

1. In accordance with Arizona Revised Statutes Section 36-2857.C.5, a marijuana establishment may be operated by, and only by, a dual licensee or an entity

eligible to become a dual licensee who operates both a nonprofit medical marijuana dispensary and marijuana establishment cooperatively in a shared location and has not forfeited or terminated its nonprofit medical marijuana dispensary registration from the Department.

2. Any marijuana establishment located and operating in the City shall be subject to all applicable rules, regulations and requirements that apply to medical marijuana dispensaries in the City.

J. MARIJUANA ESTABLISHMENT PERMITTED; RESIDENTIAL.

1. Marijuana possession, consumption, processing, manufacturing, transportation and cultivation is permitted in a residential zoning district in the City of Cottonwood subject to the following conditions and limitations:
 - a. It shall be unlawful for any one individual to possess, transport, cultivate or process more than six (6) marijuana plants.
 - b. It shall be unlawful for two or more individuals 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 the City of Cottonwood limits.
 - d. Marijuana cultivation in residential zoning districts 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.
 - e. Marijuana cultivation in residential zoning districts shall be limited to areas where the marijuana plants are not visible from public view without using binoculars, aircraft or other optical aids.
 - f. Residences used for marijuana cultivation shall maintain all kitchen, bathrooms, and primary bedroom(s) for their intended use and not use such rooms primarily for marijuana cultivation.

g. No person or residence may permit the emission of marijuana dust, fumes, vapors or odors into the environment from a residence or fail to ensure that ventilation, air filtration, building and design standards are compatible with adjacent uses and the requirements of adopted building codes of the City of Cottonwood.

K. RETAIL SALES FROM MARIJUANA AND MARIJUANA PRODUCTS.

1. All retail sales of marijuana products are subject to the City's transaction privilege tax.

L. FEES.

A facility registration for a medical marijuana facility shall be accompanied by a filing fee in an amount established by a schedule adopted by resolution of the City Council and filed in the office of the City Clerk. No part of the filing fee shall be refundable.

M. VIOLATIONS.

1. It is unlawful and a violation of this article for a person to sell, cultivate, process, manufacture or transport marijuana or marijuana products if the person fails to meet all the requirements in this article or state law, including the Department's rules.
2. It is a violation of this article for any person to provide false information on any permit application.
3. Each day any violation of any provision of this article shall continue shall constitute a separate offense.

N. ENFORCEMENT; PENALTIES.

1. Any permits associated with the uses described in this section may be revoked by the City of Cottonwood for violation of any provision of this article, for any violation of the requirements of the permit, or if the Department revokes the license for a marijuana establishment or marijuana testing facility. If a permit is revoked, the permittee shall have the right to appeal the decision of the City of Cottonwood to the City Council.
2. Violations of this article are in addition to any other violation enumerated within the City of Cottonwood ordinances or the City of Cottonwood Municipal Code

and in no way limits the penalties, actions or abatement procedures which may be taken by the City for any violation of this article, which is also a violation of any other ordinance or Code provision of the City or federal or state law. Conviction and punishment of judgment and civil sanction against any person under this article shall not relieve such person from the responsibility of correcting prohibited conditions, or removing prohibited structures or improvements, and shall not prevent the enforced correction or removal thereof.

O. APPEAL

Any registrant for a medical marijuana facility who is dissatisfied or aggrieved by an official decision of the Community Development Director/Zoning Administrator may appeal such decision to the Board of Adjustment by filing a written notice of appeal with the City Clerk, not later than fifteen (15) days from the date of the Community Development Director/Zoning Administrator's decision.