

Adopted May 3, 2011, Amended March 1, 2022 by the Board of Supervisors

## **2300 Cannabis Regulations**

### **Section 2301. Definitions**

***Medical Marijuana Dispensary*** - A not-for-profit entity, defined in A.R.S. § 36-2801(12), that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies, sells or dispenses marijuana or related supplies and educational materials to cardholders.

***Medical Marijuana Dispensary Offsite Cultivation Location*** - The additional location where marijuana is cultivated by a medical marijuana dispensary as referenced in A.R.S. § 36-2804(B)(1)(b)(ii).

***Set back Distances*** – All distances shall be measured line of sight from the parcel boundaries.

***Medical use*** -- means the acquisition, possession, cultivation, manufacture, use, administration, delivery, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition.

***Marijuana*** – means all parts of any plant of the genus cannabis whether growing or not, and the seeds of such plant.

***Qualifying patient*** -- means a person who has been diagnosed by a physician as having a debilitating medical condition.

***Registry identification card*** – means a document issued by the department that identifies a person as a registered qualifying patient, a registered designated caregiver, a registered nonprofit medical marijuana dispensary agent or a registered independent third-party laboratory agent.

### **Section 2302. Purpose and Application**

#### **A. Purpose**

1. The Arizona Medical Marijuana Act, A.R.S. 36-2806.01 allows counties to enact zoning regulation of medical marijuana dispensaries.
2. Nothing in this ordinance is intended to permit or assist in the violation of either the Federal Controlled Substances Act or the Arizona Controlled Substances Act.
3. This ordinance will allow for the use of property as a medical marijuana dispensary or an affiliated medical marijuana dispensary off-site cultivation location pursuant to A.R.S. 36-28.1.

Adopted May 3, 2011, Amended March 1, 2022 by the Board of Supervisors

## **B. Application**

1. Medical Marijuana Dispensary and Medical Marijuana Dispensary Offsite Cultivation Location shall only be located in a C2 (General Commercial) Zone with an approved Conditional Use Permit following this section. The qualifying patient cultivation location or designated caregiver cultivation location shall be located in the AG that is located at least twenty-five (25) miles from a Medical Marijuana dispensary.

### **Section 2303. Conditional Uses**

**A. Medical Marijuana Dispensary.** As long as the Arizona Revised Statutes remain in full force and effect to allow medical marijuana dispensaries, a medical marijuana dispensary is permitted as a conditional use subject to the following conditions:

1. Minimum Notification Area. The minimum notification area for a conditional use permit for a medical marijuana dispensary is 1,000 feet.
2. An applicant for a conditional use permit for a medical marijuana dispensary must complete an application that includes all of the following information:
  - a. If the application is by an agent for the current owner of the property the authorization must include an explicit notarized acknowledgment from the current owner that the owner knows that the proposed use of the property is as a medical marijuana dispensary.
  - b. The legal name of the medical marijuana dispensary.
  - c. The name address and date of birth of each principal officer and board member of the nonprofit medical marijuana dispensary and the name, address, and date of birth of each medical marijuana dispensary agent.
  - d. A copy of the operating procedures adopted in compliance with A.R.S. §36-2804(B)(1)(c).
  - e. A notarized certification that none of the principal officers or board members has been convicted of one of the following offenses:
    - i. A violent crime as defined in A.R.S. § 13-901.03(B) that was classified as a felony in the jurisdiction where the person was convicted.
    - ii. A violation of state or federal controlled substance law that was classified as a felony in the jurisdiction where the person was convicted including an offense for which the sentence, any term of probation, incarceration or supervised release, was completed within the 10 years prior to applying for the application for the dispensary or an offense involving conduct that would be immune from arrest, prosecution or penalty under A.R.S. §36-2811 except that the conduct occurred before the effective date of that statute or was prosecuted by an authority other than the State of Arizona.
  - f. A notarized certification that none of the principal officers or board members has served as a principal officer or board member for a registered nonprofit medical marijuana dispensary that has had its registration certificate revoked.
  - g. A floor plan showing the location, dimensions and type of security measures demonstrating that the medical marijuana dispensary will meet the definition of

Adopted May 3, 2011, Amended March 1, 2022 by the Board of Supervisors  
enclosed locked facility contained in A.R.S. §36-2801(6) and will be conducted  
completely within an enclosed, locked building.

3. **Permitted Location:** A medical marijuana dispensary is only permitted in the C-2 (General Commercial) zone with an approved conditional use permit.
4. **Community Impacts.** The Board may or may not approve a medical marijuana dispensary at a site if substantial evidence is presented that locating the dispensary at the proposed site will negatively impact neighboring property values or if substantial evidence is presented that shows that locating the dispensary at the proposed site will create an unreasonable risk to the health, safety, or general welfare in the area.
5. **Development Standards.**
  - a. A medical marijuana dispensary must be located in a permanent building and may not be located in a trailer, cargo container or motor vehicle.
  - b. A medical marijuana dispensary shall be setback a minimum of 25 miles from all other medical marijuana dispensaries and Industrial HEMP locations measured from the parcel boundaries.
  - c. A medical marijuana dispensary shall be setback a minimum of 2,500 feet from schools, community service agency, activity facility, and or activity where children may be enrolled, measured from the parcel boundaries.
  - d. A medical marijuana dispensary shall be setback a minimum of 2,500 feet from a childcare center, measured from the parcel boundaries.
  - e. A medical marijuana dispensary shall be setback a minimum of 2,500 feet from a library or public park.
  - f. A medical marijuana dispensary shall be setback a minimum of 2,500 feet from a church.
  - g. A medical marijuana dispensary shall be setback a minimum of 2,500 feet from a residential substance abuse diagnostic and treatment facility or other drug or alcohol rehabilitation facility.
  - h. A medical marijuana dispensary may not have a drive-through service.
  - i. A medical marijuana dispensary may not have outdoor seating areas.
  - j. The maximum floor area of a medical marijuana dispensary is 2,000 square feet finished floor area.
  - k. The secure storage area for the medical marijuana stored at the medical marijuana dispensary shall not exceed 400 square feet finished floor area.
  - l. The permitted hours of operation of a medical marijuana dispensary are between the hours of 9:00a.m. and 5:00p.m. daily.
6. **Permit Conditions.** The Board may include any conditions it finds necessary to conserve and promote the public health, safety, convenience, and general welfare. The board must include the following permit conditions for issuance of the conditional use permit for a medical marijuana dispensary:
  - a. An expiration date for the conditional use permit that requires re-application or renewal of the permit after three years or less.
  - b. A requirement that the medical marijuana dispensary meets security requirements adopted by the Arizona Department of Health Services.
  - c. A requirement that the storage facilities for the medical marijuana stored or grown at the off-site cultivation location prevent the emission of dust, fumes, vapors, or odors into the environment.

Adopted May 3, 2011, Amended March 1, 2022 by the Board of Supervisors

- d. A requirement that the owner secure a certification from the State Fire Marshall or from another acceptable entity responsible for fire safety in the area in which the medical marijuana dispensary is to be located stating that the structure complies with all fire code requirements and supply that certification to the Development Services Department.
  - e. A prohibition on the medical marijuana dispensary offering a service that provides off-site delivery of the medical marijuana.
  - f. A requirement that the medical marijuana dispensary is prohibited from permitting anyone to consume marijuana on the premises.
7. **Enforcement.** The provisions of this subsection may be enforced through the use of the civil penalty procedure provided for by Section 2.160.140 or by injunction or other civil proceeding as provided by A.R.S §11-815(H). Notwithstanding any other provision of this code, this subsection shall not be enforced under A.R.S §11-815(C) as a misdemeanor.
8. **Fees.** The fees shall be set from time to time by the Board of Supervisors.

**B. Medical Marijuana Dispensary Off-Site Cultivation Location:** As long as the laws within the Arizona Revised Statutes remain in full force and effect to allow medical marijuana dispensaries, a medical marijuana dispensary off-site cultivation location is permitted as a conditional use subject to the following conditions:

1. **Minimum Notification Area.** The minimum notification area for a conditional use permit for a medical marijuana dispensary is 1000 feet.
2. **Supplemental Application.** In addition to the application required by Article 11, an applicant for a conditional use permit for a medical marijuana dispensary off-site cultivation location shall complete an application that includes all of the following information.
  - a. If the application is by an agent for the owner the authorization must include an explicit acknowledgment from the owner that the owner knows that the proposed use of the property is as a medical marijuana dispensary off-site cultivation location.
  - b. The legal name and address of the affiliated medical marijuana dispensary.
  - c. The name address and date of birth of each principal officer and board member of the medical marijuana dispensary affiliated with the off-site cultivation location and the name, address, and date of birth of each medical marijuana dispensary agent.
  - d. A copy of the operating procedures adopted in compliance with A.R.S. §36-2804(B)(1)(c).
  - e. A notarized certification that none of the principal officers or board members for the medical marijuana dispensary affiliated with the off-site cultivation location has been convicted of one of the following offenses:
    - 1) A violent crime as defined in A.R.S. § 13-901.03(B) that was classified as a felony in the jurisdiction where the person was convicted.
    - 2) A violation of state or federal controlled substance law that was classified as a felony in the jurisdiction where the person was convicted except an offense for which the sentence, including any term of probation, incarceration or supervised release, was completed ten or more years earlier or an offense involving conduct that would be immune from arrest, prosecution or penalty under A.R.S. §36-2811

Adopted May 3, 2011, Amended March 1, 2022 by the Board of Supervisors  
except that the conduct occurred before the effective date of that statute or was  
prosecuted by an authority other than the state of Arizona.

- f. A notarized certification that none of the principal officers or board members for the medical marijuana dispensary affiliated with the off-site cultivation location has served as a principal officer or board member for a registered nonprofit medical marijuana dispensary that has had its registration certificate revoked.
  - g. A floor plan showing the location, dimensions of and type of security measures demonstrating that the medical marijuana dispensary off-site cultivation location will be conducted completely within an enclosed locked building and meet the definition of enclosed locked facility contained in A.R.S. §36-2801(6).
3. **Permitted Location:** A medical marijuana dispensary off-site cultivation location is only permitted in the C2 (General Commercial) Zone with an approved Conditional Use Permit.
4. **Community Impacts.** The Board may not approve a medical marijuana dispensary off-site cultivation location on a property if substantial evidence is presented that locating the cultivation location at the proposed site will negatively impact neighboring property values or if substantial evidence is presented that shows that locating the cultivation location at the proposed site will create an unreasonable risk to the health, safety or general welfare in the area.
5. **Development Standards.**
- a. A medical marijuana dispensary off-site cultivation location must be located in a permanent building and may not be located in a trailer, cargo container or motor vehicle.
  - b. A medical marijuana dispensary off-site cultivation location shall be setback a minimum of 25 miles from all other medical marijuana dispensary off-site cultivation locations and Industrial HEMP locations measured from the parcel boundaries.
  - c. A medical marijuana dispensary off-site cultivation location shall be setback a minimum of 2,500 feet from schools, community service agency, activity facility, and or activity where children may be enrolled, measured from the parcel boundaries.
  - d. A medical marijuana dispensary off-site cultivation location shall be setback a minimum of 2,500 feet from a childcare center.
  - e. A medical marijuana dispensary off-site cultivation location shall be setback a minimum of 2,500 feet from a library or public park.
  - f. A medical marijuana dispensary off-site cultivation location shall be setback a minimum of 2,500 feet from a church.
  - g. A medical marijuana dispensary off-site cultivation location shall be setback a minimum of 2,500 feet from a residential substance abuse diagnostic and treatment facility or other drug or alcohol rehabilitation facility.
  - h. A medical marijuana dispensary off-site cultivation location may not have outdoor seating areas.
  - i. The maximum floor area of a medical marijuana dispensary off-site cultivation location is 2,000 square feet finished floor area.
  - j. The secure storage area for the medical marijuana stored at the medical marijuana dispensary off-site cultivation location shall not exceed 1,000 square feet finished floor area.

Adopted May 3, 2011, Amended March 1, 2022 by the Board of Supervisors

- k. Must have a legible copy of a valid Medical Marijuana Dispensary Agent Registry Identification Card, the original of which is issued by the State of Arizona, plainly always displayed inside of the doorway always.
  - l. Must have the address of the Medical Marijuana Dispensary that the Off-site Cultivation Location supplies plainly displayed inside of the doorway always.
  - m. A medical marijuana dispensary off-site cultivation location shall not be placed in locations that are predominately residential, i.e., 20 acres or smaller.
  - n. A medical marijuana dispensary off-site cultivation location shall be located along County maintained roadways or State or County Highways.
6. **Permit Conditions.** The Board may include any conditions it finds necessary to conserve and promote the public health, safety, convenience, and general welfare. The board must include the following permit conditions for issuance of the conditional use permit for a medical marijuana dispensary off-site cultivation location:
- a. An expiration date for the conditional use permit that requires re-application or renewal of the permit after two years or less.
  - b. A requirement that the medical marijuana dispensary off-site cultivation location meets security requirements adopted by the Arizona Department of Health Services.
  - c. A requirement that the storage facilities for the medical marijuana stored or grown on site prevent the emission of dust, fumes, vapors, or odors into the environment.
  - d. A requirement that the owner secure a certification from the State Fire Marshall or from another acceptable entity responsible for fire safety in the area in which the medical marijuana dispensary off-site cultivation location is to be located stating that the structure complies with all fire code requirements and supply a copy of that certification to the Community Development Department.
  - e. A requirement that the medical marijuana dispensary off-site cultivation location is prohibited from permitting anyone to consume marijuana on the premises.
7. **Enforcement.** The provisions of this subsection may be enforced through the use of the civil penalty procedure provided for by Section or 2.160.140 or by injunction or other civil proceeding as provided by A.R.S §11-815(H). Notwithstanding any other provision of this code, this subsection shall not be enforced under A.R.S §11-815(C) as a misdemeanor.
8. **Fees.** The fees shall be set from time to time by the Board of Supervisors.

### **Section 2.305. Adult Use (Recreational) Marijuana**

#### **A. Purpose**

1. The Arizona Responsible Adult Use of Marijuana Act, A.R.S. 36-2850 et seq. allows counties to enact zoning regulations and restrictions of Marijuana facilities, including retail locations, retail grow operations, and marijuana testing facilities.
2. Nothing in this Section is intended to permit or assist in the violation of either the Federal Controlled Substances Act or the Arizona Controlled Substances Act.
3. This Section will allow for the use of property as a marijuana retail location, marijuana retail grow operations, and marijuana testing facilities under the same terms and conditions as Medical Marijuana under this Ordinance.

Adopted May 3, 2011, Amended March 1, 2022 by the Board of Supervisors

## **B. Application**

1. Any marijuana business within Apache County shall be allowed pursuant to the same terms and conditions established for Medical Marijuana pursuant to this Ordinance.
2. Specifically, according to this Ordinance, Marijuana businesses within Apache County shall only be located in a C2 (General Commercial) Zone with an approved Conditional Use Permit.

## **Section 2306. Industrial HEMP**

A. For the purposes of carrying out this article, the Board of Supervisors shall:

1. Adopt rules to oversee the permitting, production and management of industrial hemp and hemp seed in Apache County pursuant to this article.
2. Adopt fees.
3. Authorize qualified applicants to propagate, harvest, transport or process, or any combination thereof, industrial hemp according to rules adopted by the state of Arizona.

## **B. Definitions**

***Crop*** – any industrial hemp that is grown under a single industrial hemp license issued by the state.

***Cultivate and cultivation*** – to propagate, breed, grow, prepare, and package marijuana.

***Grower*** – an individual, partnership, company, or corporation that propagates industrial hemp.

***Harvester*** – an individual, partnership, company, or corporation that is licensed by the state to harvest industrial hemp for a licensed grower.

***Hemp products*** – all products made from industrial hemp, including cloth, cordage, fiber, fuel, grain, paint, paper, construction materials, plastics and by-products derived from sterile hemp seed or hemp seed oil. Hemp products excludes any product made to be ingested except food made from sterile hemp seed or hemp seed oil.

***Hemp seed*** – any viable cannabis sativa L. seed that produces an industrial hemp plant that is subject to A.R.S. § 4.1 and rules and orders adopted by the state pursuant to Article 3-311.

***Industrial hemp*** – the plant cannabis sativa L. and any part of such a plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths percent on a dry-weight basis.

***Industrial hemp site*** – the location in which a grower, harvester, transporter, or processor possesses a crop, a harvested crop or hemp seed. (Section 3-311)

***License*** – the authorization that is granted by the state of Arizona to propagate, harvest, transport, or process industrial hemp in this state under this article and rules and orders adopted by the director pursuant to this article.

Adopted May 3, 2011, Amended March 1, 2022 by the Board of Supervisors

**Licensee** – a grower, harvester, transporter, or processor with a valid license.

**Manufacture and manufacturing** – to compound, blend, extract, infuse or otherwise make or prepare a marijuana product.

**Processor** – an individual, partnership, company, or corporation that is licensed by the state of Arizona to receive industrial hemp for processing into hemp products or hemp seed.

**Transporter** – an individual, partnership, company, or corporation that is licensed by the state of Arizona to transport industrial hemp for a licensed grower to a processor.

### **C. Application**

A conditional use permit is required for an original or renewal Industrial HEMP permit to propagate, harvest, transport, process, sell, or any combination thereof of Industrial HEMP as outlined in Article 11 of the Apache County Ordinances and shall comply with all the following:

1. Industrial HEMP locations shall be located in the AG (agricultural general) zone that is located at least twenty-five (25) miles from any Marijuana Dispensary or Marijuana cultivation locations
2. Be on a form that is provided by the community development director.
3. Include complete and accurate information.
4. The applicant, grower, harvester, transporter, or processor shall obtain an Industrial HEMP license from the state of Arizona and shall provide proof of having a valid license from the State of Arizona pursuant to A.R.S. section 41 1758.07 and provided yearly to the community development department upon request for renewal.
5. The applicant, grower, harvester, transporter, or processor shall apply for a license pursuant to rules and orders adopted by the state of Arizona and shall provide proof of having a valid license from the State of Arizona pursuant to A.R.S. section 41 1758.07 and provided yearly to the community development department upon request for renewal.
6. The application shall be accompanied by the permit fee as set forth by the Board of Supervisors.
7. The Community Development Department may require additional information to determine compliance with any other conditions that in its opinion are necessary to protect the public health, safety, and general welfare.
8. An Industrial HEMP permit shall be renewed each year.

### **D. Development Standards**

1. An Industrial HEMP location shall be located in a permanent building and may not be located in a trailer, cargo container or motor vehicle.
2. An Industrial HEMP location shall be setback a minimum of 25 miles from all other medical marijuana locations, marijuana locations, and Industrial HEMP locations measured from the parcel boundaries.

Adopted May 3, 2011, Amended March 1, 2022 by the Board of Supervisors

3. An Industrial HEMP location shall be setback a minimum of 2,500 feet from schools, community service agency, activity facility, and or activity where children may be enrolled, measured from the parcel boundaries.
4. An Industrial HEMP location shall be setback a minimum of 2,500 feet from a childcare center.
5. An Industrial HEMP location shall be setback a minimum of 2,500 feet from a library or public park.
6. An Industrial HEMP location shall be setback a minimum of 2,500 feet from a church.
7. An Industrial HEMP location shall be setback a minimum of 2,500 feet from a residential substance abuse diagnostic and treatment facility or other drug or alcohol rehabilitation facility.
8. An Industrial HEMP location may not have outdoor seating areas at any dispensary locations.
9. The minimum floor area of an Industrial HEMP location is 2,000 square feet finished floor area.
10. The secure storage area for an Industrial HEMP stored at the Industrial HEMP location shall not exceed 1,000 square feet finished floor area.
11. Must have a legible copy of a valid Industrial HEMP Identification Card, the original of which is issued by the State of Arizona, plainly displayed inside of the doorway, always.
12. Must have the address of the Industrial HEMP location supplies plainly displayed inside of the doorway, always.
13. An Industrial HEMP location shall not be placed in locations that are predominately residential, i.e., 20 acres or smaller.
14. An Industrial HEMP location shall be located along County maintained roadways or State or County Highways. (Does not include “N” roads)

#### **E. Time limit**

1. Both the conditional use permit and administrative conditional use permit become effective on approval by the Board of Supervisors or community development director.
2. No person shall reapply for the same or substantially the same use permit on the same or substantially the same plot, lot, or parcel of land within a period of one year from the date of denial or revocation of said use permit.

#### **F. Place conditions**

#### **G. Annual Reporting Requirements**

**H.** The community development director may revoke or refuse to issue or renew an Industrial HEMP permit for a violation of any law of this state, any federal law or any rule or order adopted by the state of Arizona.

**I.** A member of an Indian tribe may apply for a license pursuant to this section. If a member of an Indian tribe is issued a permit pursuant to this section, the member is subject to the requirements prescribed in this article.

Adopted May 3, 2011, Amended March 1, 2022 by the Board of Supervisors

**J. Violations; classification; civil penalties**

1. In addition to any liability established by this article or any penalty provided by law, the community development director may impose a civil penalty of not more than five thousand dollars for each violation of any of the following:
  - a. A licensing or permitting requirement.
  - b. A license or permit term or condition.
2. A rule or order adopted by the state of Arizona that relates to propagating, harvesting, transporting or processing industrial hemp.
3. A person who intentionally violates this article or any rule or order related to this article is guilty of a class 1 misdemeanor.
4. A person who does not hold a license issued by the state of Arizona or who is not a designee or agent of a person who holds a license issued by the state of Arizona may not propagate, harvest, transport or process industrial hemp. A person who violates this subsection is subject to section 13-3405.

**K. Fees**

The fees recommended by the P & Z Commission are as follows:

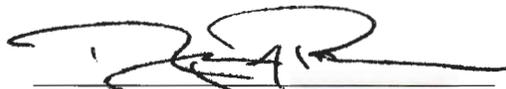
- Rezone - \$600
- Medical Marijuana Dispensary Permit - \$2,500
- Medical Marijuana Dispensary Offsite Cultivation Location Permit - \$2,500
- Adult/Recreational Use CUP \$2,500
- HEMP Grow CUP \$1,000
- HEMP Processing CUP \$1,000

Adopted on May 3, 2011, Amended March 1, 2022 by the Apache County Board of Supervisors at St. Johns, Arizona by unanimous vote.

APACHE COUNTY BOARD OF SUPERVISORS

By   
 Nelson Davis  
 Chairman of the Board

Attest:

  
 Ryan Patterson Clerk of the Board

  
 Michael B. Whiting, County Attorney