

4.8.6. PERMITTED USES: COMMERCIAL AND MIXED USE ZONES

TABLE 4.8-4: PERMITTED USES - COMMERCIAL AND MIXED USE ZONES						
P = Permitted Use		S = Permitted as Special Exception Use				
[1] Mayor and Council Special Exception Procedure, Section 3.4.4						
[2] Zoning Examiner Special Exception Procedure, Section 3.4.3						
[3] PDSD Special Exception Procedure, Section 3.4.2						
LAND USE	C-1	C-2	C-3	OCR-1	OCR-2	USE SPECIFIC STANDARDS

Retail Trade Use Group With Land Use Class/Type:						

Marijuana Facility:						
Designated Caregiver Cultivation Location		P	P			C-2, C-3: 4.9.9.E.2 & 3
Dispensary		P[1]	P[1]			C-2, C-3: 4.9.9.E.1
Dispensary Off-site Cultivation Location		P	P			C-2, C-3: 4.9.9.E.2
Qualifying Patient Cultivation Location		P	P			C-2, C-3: 4.9.9.E.4

4.9.9. RETAIL TRADE USE GROUP

E. Marijuana Facility

1. Marijuana Dispensary. ~~As provided in Section 11.3.9.F.2, a marijuana dispensary does not include a Marijuana Establishment. To the fullest extent allowable by law, the operation of a Marijuana Establishment is prohibited in the City of Tucson except where authorized for a dual licensee who:~~
~~i) Operates both a nonprofit medical marijuana dispensary and marijuana establishment cooperatively in a shared location; and~~
~~ii) Has not forfeited or terminated the nonprofit medical marijuana dispensary registration from the Department.~~

- a. The total maximum floor area of a marijuana dispensary shall not exceed 10,000 square feet.
- b. A ~~medical~~ marijuana dispensary shall be located in a permanent building and shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle, or other motor vehicle. "Building" shall have the same meaning provided in Section 11.4.3, Definitions-B.
- c. The permitted hours of operation of a marijuana dispensary are from 7:00 a.m. to 10:00 p.m.
- d. A marijuana dispensary shall have an interior customer waiting area equal to a minimum of 25% of the sales floor area. For purposes of this section, sales floor area is defined as any area open to customers for the sale of products. This does not include waiting areas, areas for production and storing of products, or offices.
- e. A marijuana dispensary shall not have outdoor seating areas.
- f. A marijuana dispensary may deliver marijuana, once rules permitting and regulating delivery are approved by the AZDHS and become effective, and shall comply with state law and all lawful, applicable health regulations, including those promulgated by the Arizona Department of Health Services and any other authorized regulatory agency.
- g. A marijuana dispensary shall be setback a minimum of 2,000 feet from any other marijuana dispensaries, measured in a straight and direct horizontal line between the two closest exterior or applicable interior suite walls of marijuana dispensaries.
- h. A marijuana dispensary shall be setback a minimum of 500 feet from a K-12 public, private, or charter school or a licensed childcare center, measured in a straight and direct horizontal line from the closest exterior or applicable interior suite wall of the marijuana dispensary to the closest property line of a school or childcare center. Exception: For the purposes of this section, the following uses are not considered schools and, therefore, are exempt from the setback

Attachment A - Proposed amendments to the UDC related to medical and adult-use marijuana requirement: 1) school administrative offices not located on or contiguous with a school site; and, 2) athletic fields or playgrounds used for school functions that are not contiguous with a school site, except as provided in Section 4.9.9.E.1.k.

i. A marijuana dispensary shall be setback a minimum of 500 feet from a public park listed in Section 6: Marijuana Dispensary and Dispensary Off-Site Cultivation Uses - Required Setback from Certain Parks, of the Technical Standards Manual, or library and a minimum of 500 feet from a licensed residential substance abuse diagnostic and treatment facility or other licensed residential drug or alcohol rehabilitation facility, measured in a straight and direct horizontal line from the closest exterior or applicable interior suite wall of the marijuana dispensary to the closest property line of a library, public park, licensed residential substance abuse diagnostic and treatment facility, or other licensed drug or alcohol rehabilitation facility.

j. The expansion of an existing marijuana dispensary shall be setback a minimum of 500 feet from a K-12 public, private, or charter school, measured in a straight and direct horizontal line from the closest exterior or applicable interior suite wall of the marijuana dispensary to the closest property line of a school.

k. A marijuana dispensary and associated uses such as infusion kitchens, shall comply with all lawful, applicable health regulations, including those promulgated by the Arizona Department of Health Services and any other authorized regulatory agency.

l. Odor Mitigation

(1) Odor mitigation devices and techniques shall be incorporated in all marijuana facilities to ensure that odors are mitigated. As such, this may be done through an exhaust air filtration system with odor control that prevents internal odors from being emitted externally or through any other best practices deemed adequate for odor mitigation as determined by the Zoning Administrator.

(2) An odor mitigation plan shall be submitted demonstrating compliance with odor control requirements. When a modification is made to a marijuana facility, or the facility operation, that has the potential to impact the nature or degree of odor, or affects the control of odor, and UDC requirements for bringing the entire site up to code per Sections 7.4.3.E, 7.5.3.E, 7.6.2.B & 9.2.2, the marijuana facility owner must update its odor mitigation plan within 30 days of facility modification. Failure to submit an updated odor mitigation plan within 30 days of facility modification is a violation of this section and shall be a civil infraction.

(3) Upon receipt of a formal complaint through code enforcement related to a marijuana facility's odor, an inspection for compliance with the odor mitigation plan shall be conducted. If an inspection reveals that the existing odor mitigation plan does not comply with the odor mitigation plan for the marijuana facility or marijuana facility's cultivation site, code enforcement shall provide the owner or person in charge with a notice of deficiencies and the owner or person in charge will be required to bring facility into compliance with the approved odor mitigation plan.

2. Marijuana Dispensary Off-Site Cultivation Location/Manufacturing Location

a. In the C-2 and C-3 zones, the total maximum floor area of a medical marijuana dispensary off-site cultivation location shall not exceed 10,000 square feet.

b. In the P-1, I-1 and I-2 zones, there is no size limit.

c. In the C-2 and C-3 zones, a medical marijuana dispensary off-site cultivation location shall be located in a permanent building and shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle, or other motor vehicle. "Building" shall have the meaning provided in Section 11.4.

d. In the I-1 and I-2 zones, a marijuana dispensary off-site cultivation location, or a marijuana dispensary off-site manufacturing location in the P-1, I-1, and I-2 zones, shall be located in a permanent, enclosed, locked facility in accordance with state statutes and Arizona Department of Health Services rules and shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle, or other motor vehicle.

e. In the C-2 and C-3 zones, a marijuana dispensary off-site cultivation location shall be setback a minimum of 2,000 feet from any other marijuana dispensaries or marijuana dispensary off-site cultivation locations measured in a straight and direct horizontal line between the two closest exterior or applicable interior suite walls of marijuana dispensaries' cultivation locations.

f. In the C-2 and C-3 zones, a marijuana dispensary off-site cultivation location shall be setback a minimum of 1,000 feet from a K-12 public, private or charter school or a licensed childcare center measured in a straight and direct horizontal line from the closest exterior or applicable interior suite wall of the marijuana off-site cultivation location to the nearest property

Attachment A - Proposed amendments to the UDC related to medical and adult-use marijuana line of a school or childcare center. Exception: For the purposes of this section, the following uses are not considered schools, and therefore, exempt from the setback requirement: 1) school administrative offices not located on or contiguous with a school site ; and, 2) except as provided in Section 4.9.9.E.k, athletic fields or playgrounds used for school functions that are not contiguous with a school site .

g. In the C-2 and C-3 zones, a marijuana dispensary off-site cultivation location shall be setback a minimum of 1,000 feet from a public park listed in Section 6: Marijuana Dispensary and Dispensary Off-Site Cultivation Uses - Required Setback from Certain Parks, of the Technical Standards Manual or library and a minimum of 1,000 feet from a licensed residential substance abuse diagnostic and treatment facility or other licensed residential drug or alcohol rehabilitation facility measured in a straight and direct horizontal line from the closest exterior or applicable interior suite wall of the marijuana dispensary off-site cultivation location to the closest property line of a library, public park, licensed residential substance abuse diagnostic and treatment facility, or other licensed drug or alcohol rehabilitation facility.

h. In the I-1 and I-2 zones, a marijuana dispensary off-site cultivation location , or a marijuana dispensary off-site manufacturing location in the P-1, I-1, and I-2 zones, shall be setback a minimum of 500 feet from a K-12 public, private, or charter school, measured in a straight and direct horizontal line from the closest exterior or applicable interior suite wall of the marijuana off-site cultivation location to the closest property line of a school.

i. A marijuana off-site cultivation location or a marijuana dispensary off-site manufacturing location and associated uses such as infusion kitchens, shall comply with all lawful, applicable health regulations, including those promulgated by the Arizona Department of Health Services and any other authorized regulatory agency.

j. A marijuana dispensary off-site cultivation location or marijuana dispensary off-site manufacturing location shall provide only wholesale products to other marijuana dispensaries, marijuana dispensary off-site manufacturing locations, or marijuana dispensary off-site cultivation locations.

k. Odor Mitigation

(1) Odor mitigation devices and techniques shall be incorporated in all marijuana facilities to ensure that odors are mitigated. As such, this may be done through an exhaust air filtration system with odor control that prevents internal odors from being emitted externally or through any other best practices deemed adequate for odor mitigation as determined by the Zoning Administrator.

(2) An odor mitigation plan shall be submitted demonstrating compliance with odor control requirements. When a modification is made to a marijuana facility, or the facility operation, that has the potential to impact the nature or degree of odor, or affects the control of odor, and UDC requirements for bringing the entire site up to code per Sections 7.4.3.E, 7.5.3.E, 7.6.2.B & 9.2.2, the marijuana facility owner must update its odor mitigation plan within 30 days of facility modification. Failure to submit an updated odor mitigation plan within 30 days of facility modification is a violation of this section and shall be a civil infraction.

(3) Upon receipt of a formal complaint through code enforcement related to a marijuana facility's odor, an inspection for compliance with the odor mitigation plan shall be conducted. If an inspection reveals that the existing odor mitigation plan does not comply with the odor mitigation plan for the marijuana facility or marijuana facility's cultivation site , code enforcement shall provide the owner or person in charge with a notice of deficiencies and the owner or person in charge will be required to bring facility into compliance with the approved odor mitigation plan.

3. Medical Marijuana Designated Caregiver Cultivation Location

a. All conditions and restrictions for medical marijuana dispensary off-site cultivation locations apply except that the designated caregiver cultivation location cultivation area is limited to a total 250 square feet maximum, including any storage areas.

b. A designated caregiver may cultivate at their residence for a single qualifying patient subject to compliance with A.R.S. § 36-2806.01.

c. More than one designated caregiver may co-locate cultivation locations as long as the total cultivation area does not exceed 250 square feet maximum, including storage areas.

d. A designated caregiver shall comply with all lawful, applicable health regulations, including those promulgated by the Arizona Department of Health Services and any other authorized regulatory agency.

4. Medical Marijuana Qualifying Patient Cultivation Location

a. A qualifying patient may cultivate at their place of residence subject to compliance with

Attachment A - Proposed amendments to the UDC related to medical and adult-use marijuana
A.R.S. § 36-2806.01.

b. A qualifying patient, cultivating marijuana, shall comply with all lawful, applicable health regulations, including those promulgated by the Arizona Department of Health Services and any other authorized regulatory agency.

5.6.8. APPROACH DEPARTURE CORRIDORS (ADC) FOR DMAFB

The required land use standards within the ADCs are as follows.

A. ADC-1

2. Prohibited Land Uses

The following land uses are prohibited in the ADC-1:

g. Retail Trade Use Group (all uses within the group except for Marijuana Dispensary Off-site Cultivation and Marijuana Dispensary Off-site Manufacturing Location)

B. ADC-2

2. Prohibited Land Uses

The following land uses are prohibited in the ADC-2:

g. Retail Trade Use Group (all uses in the group except for Marijuana Dispensary Off-site Cultivation and Marijuana Dispensary Off-site Manufacturing Location)

11.3.9. RETAIL TRADE USE GROUP

The Retail Trade Use Group includes Land Use Classes that involve the selling, leasing, or renting of merchandise to the general public. The following Land Use Classes and examples comprise the Retail Trade Use Group.

E. Medical Marijuana Designated Caregiver Cultivation Location

A Medical Marijuana Designated Caregiver Cultivation Location or Cultivation by a Designated Caregiver refers to cultivation of Medical Marijuana by a Designated Caregiver and Cardholder whose registration card indicates that the cardholder has been authorized to cultivate marijuana plants for a qualifying patient(s)' medical use pursuant to The Arizona Medical Marijuana Act, A.R.S. § 36-2804.04.A.7. (Ord. No. 10850, § 6, 11/23/10)

F. Marijuana Dispensary

A Marijuana Dispensary refers to the following:

1. "Nonprofit Medical Marijuana Dispensary" as set forth in The Arizona Medical Marijuana Act, A.R.S. § 36-2801.11.
2. "Dual Licensee" as set forth in The Arizona Smart and Safe Act, A.R.S. § 36-2850.9.
- ~~3. A Marijuana Dispensary does not include a "Marijuana Establishment", as set forth in the Arizona Smart and Safe Act, A.R.S. § 36-2850.18. To the fullest extent allowable by law, the operation of a Marijuana Establishment is prohibited in the City of Tucson except where authorized for a dual licensee who:
i) Operates both a nonprofit medical marijuana dispensary and marijuana establishment cooperatively in a shared location; and
ii) Has not forfeited or terminated the nonprofit medical marijuana dispensary registration from the Department.~~

G. Marijuana Dispensary Off-site Cultivation Location

A Marijuana Dispensary Off Site Cultivation Location means the additional location, if any, where marijuana may be cultivated for the use of a Marijuana Dispensary as disclosed pursuant to The Arizona Medical Marijuana Act, A.R.S. § 36-2804.B.1.b.ii and/or The Arizona Smart and Safe Act, A.R.S. § 36-2850.18.

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H. Marijuana Dispensary Off-site Manufacturing Location

A Marijuana Dispensary Off-site Manufacturing Location is the additional location, if any, where marijuana may be manufactured for the use of a Marijuana Dispensary as disclosed pursuant to The Arizona Smart and Safe Act, A.R.S. § 36-2850.15.

I. Medical Marijuana Qualifying Patient Cultivation Location

A Medical Marijuana Qualifying Patient Cultivation Location shall mean cultivation of medical marijuana by a qualifying patient pursuant to The Arizona Medical Marijuana Act, A.R.S. §36-2801.1.a.ii, but shall only include a Qualifying Patient who is also a Cardholder, authorized to cultivate marijuana plants pursuant to the provisions of A.R.S. §36-2804.02.A.3.f.
