

RESOLUTION NO. 2021-26

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK AND ENTITLED "CASE NO. PZ-21-00056 ZONING CODE TEXT AMENDMENT - 2021: MARIJUANA USES"

RECITALS:

WHEREAS, pursuant to A.R.S. § 9-802 a municipality may enact or amend provisions of the City Code by reference to a public record, provided that the adopting ordinance is published in full;

WHEREAS, the City of Flagstaff wishes to incorporate by reference amendments to the Flagstaff Zoning Code, Ordinance No. 2021-13, by first declaring said amendments to be a public record.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. In General.

That certain document known as "*Case No. PZ-21-00056 Zoning Code Text Amendment - 2021: Marijuana Uses*" attached hereto as Exhibit A is hereby declared to be a public record, and one (1) paper copy and one (1) electronic copy shall remain on file with the City Clerk in compliance with A.R.S. § 44-7041, and said copies shall remain on file with the City Clerk.

SECTION 2. Effective Date.

This resolution shall be effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 15th day of June, 2021.


MAYOR

ATTEST:


CITY CLERK

APPROVED AS TO FORM:


CITY ATTORNEY

Exhibits:

Case No. PZ-21-00056 Zoning Code Text Amendment - 2021: Marijuana Uses

Case No. PZ-21-00056 Zoning Code Text Amendment - 2021: Marijuana Uses

HOW TO READ THIS DOCUMENT

Unless otherwise stated, existing provisions that are being deleted are shown in bold red strikethrough text, like this: ~~Provisions that are being deleted are shown with a bold red strikethrough text.~~

Provisions that are being added are shown in bold blue text, like this: **Provisions that are being added are shown in bold blue text.**

Section 1. Amend Title 10 FLAGSTAFF ZONING CODE, Division 10-20.30 Common Procedures, Section 10-20.30.050 Concept Plan Review, Subsection B. Applicability., as follows:

Section 10-20.30.050 Concept Plan Review

B. Applicability.

1. All developments requiring site plan review and approval (Section 10-20.40.140);
2. Any change of use that triggers an increase in required parking;
3. A proposed duplex;
4. Structural modifications to an exterior facade that is visible from a public way, including, but not limited to, public and private streets, public trails and paths, and alleys; ~~and~~
5. A proposed single-family residence located on a parcel that is not part of a platted ~~subdivision.~~ **subdivision; and**
6. **Any use that requires a Concept Plan in accordance with the regulations of Division 10-40.60: Specific to Uses.**

Section 2. Amend Title 10 FLAGSTAFF ZONING CODE, Division 10-40.30 Non-Transect Zones, Section 10-40.30.040 Commercial Zones, Subsection B. Commercial Zones – Allowed Uses., Table 10-40.30.040.B., Medical Marijuana Dispensary, and to add Marijuana Testing Facility, as follows:

Section 10-40.30.040 Commercial Zones

Table 10-40.30.040.B. Commercial Zones – Allowed Uses						
Primary Land Use ¹	Specific Use Regulations	Commercial Zones				
		SC	CC	HC	CS	CB
Medical Marijuana Dispensary	10-40.60.220	--	--	P	--	--
Marijuana Testing Facility		P	P	P	P	--

Section 3. Amend Title 10 FLAGSTAFF ZONING CODE, Division 10-40.30 Non-Transect Zones, Section 10-40.30.050 Industrial Zones, Subsection B. Industrial Zones – Allowed Uses., Table 10-40.30.050.B., Medical Marijuana Cultivation Location, and to add Marijuana Testing Facility, as follows:

Section 10-40.30.050 Industrial Zones

Table 10-40.30.050.B. Industrial Zones – Allowed Uses						
Primary Land Use ¹	Specific Use Regulations	Industrial Zones				
		RD	LI	LI-O	HI	HI-O
Medical Marijuana Off-Site Cultivation Location	10-40.60.220	--	P	p ⁷	P	p ⁷
Marijuana Off-site Manufacturing Location	10-40.60.220	--	P	p⁷	P	p⁷
Marijuana Testing Facility	10-40.60.220	P	P	p⁷	--	--

Section 4. Amend Title 10 FLAGSTAFF ZONING CODE, Division 10-40.60: Specific to Uses, Section 10-40.60.220 Medical Marijuana Uses, as follows:

10-40.60.220 ~~Medical~~ Marijuana ~~Uses~~ Establishments

~~A.—General Requirements for Medical Marijuana Uses. The minimum requirements of this section shall apply to all medical marijuana dispensaries and to medical marijuana dispensary off-site cultivation locations.~~

A. Applicability. Prior to the submittal of a Building Permit or Business License application, or prior to the occupancy of a structure, for a Marijuana Establishment, the applicant shall complete a Concept Plan in accordance with Section 10-20.30.050 Concept Plan Review.

B. ~~In addition to any other application requirements, an applicant for any medical marijuana dispensary or medical marijuana dispensary off-site cultivation location shall provide The~~ Concept Plan application shall include the following:

1. A notarized authorization executed by the property owner acknowledging and consenting to the ~~proposed~~ use of the property as a ~~medical marijuana dispensary or a medical marijuana dispensary off-site cultivation location, as applicable~~ **Marijuana Establishment**;

2. The **legal name of the Marijuana Establishment and the name of the owner(s) of the Marijuana Establishment** ~~the name of the medical marijuana dispensary or a medical marijuana dispensary off-site cultivation location~~;

~~3. If the application is for a medical marijuana dispensary off-site cultivation location, the name and location of the medical marijuana dispensary with which it is associated;~~

~~4. The name, address and birth date of each officer and board member of the nonprofit medical marijuana dispensary;~~

~~5.~~ **3.** The name, address, birth date, and valid registry identification card number of each nonprofit medical marijuana dispensary agent **or registered marijuana facility** agent;

~~6. A copy of the operating procedures adopted in compliance with A.R.S. § 36-2804;~~

~~7. A notarized certification that none of the nonprofit medical marijuana dispensary officers or board members has been convicted of any of the following offenses:~~

~~a. 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; or~~

~~b. 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 10 or more years earlier 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.~~

~~8. A notarized certification that none of the nonprofit medical marijuana dispensary officers or board members has served as an officer or board member for a medical marijuana dispensary that has had its registration certificate revoked;~~

9. 4. A security plan describing details of alarm systems and exterior lighting in compliance with Division 10-50.70, Outdoor Lighting Standards, and including a floor plan showing the location, ~~dimensions~~ **dimensions**, and type of security measures demonstrating that the ~~medical-marijuana-dispensary-or-medical-marijuana-dispensary-off-site-cultivation-location~~ **Marijuana Establishment** will be secured, enclosed, and locked as required by law; and
10. 5. ~~A scaled survey sealed by a land surveyor registered in the State of Arizona A scale-drawing depicting the property lines of the lot or parcel that is proposed to contain the Marijuana Establishment and the separations from the nearest property-boundary-of-the-parcel-containing-the-medical-marijuana-dispensary-or-medical-marijuana-dispensary-off-site-cultivation-location-to-the-property-boundary-of-the-parcel lot or parcel that contain containing any of the existing uses listed in subsection (F) of this section. If any of the uses are located within 50 feet of the minimum-separation, the drawing showing actual-surveyed-separations shall be prepared by a registered land surveyor.~~
6. An affidavit signed and notarized by the applicant attesting that the lot or parcel proposed to contain the Marijuana Establishment meets the separation requirements from the nearest lot or parcel containing any of the existing uses listed in subsection (F) of this section.
- C. A ~~medical marijuana-dispensary~~ **Marijuana Dispensary** shall have operating hours not earlier than 8:00 a.m. and not later than 7:00 p.m.
- D. A ~~medical-marijuana-dispensary-or-medical-marijuana-dispensary-off-site-cultivation-location~~ **Marijuana Establishment** shall:
1. ~~Be-Not be~~ located in a ~~permanent~~ **temporary building or structure (e.g. and may not be located in a semi-trailer, shipping container, storage structure, tent, trailer, or motor vehicle vehicle, etc. as determined by the Zoning Administrator);**
 - ~~2.—Not have drive through service;~~
 - ~~3.~~ 2. Not emit dust, fumes, vapors, ~~smoke~~ **smoke**, or odors into the environment;
 - ~~4.~~ 3. Prohibit consumption of marijuana on the premises, including the parking area associated with the ~~marijuana-dispensary-or-medical-marijuana-dispensary-off-site-cultivation-location~~ **Marijuana Establishment;**
 - ~~5.—Not have outdoor seating areas;~~
 - ~~6.~~ 4. Display a current City of Flagstaff business license ~~applicable to medical-marijuana-uses;~~
 - ~~7.~~ 5. Include a secure storage area that can be enclosed and locked as required by law;
 - ~~8.—Have a single secure entrance as required by law. Additional fire exits that may be required by applicable Building Code requirements shall be provided with an alarm system to prevent unauthorized exiting; and~~
 6. **Have a single secure entrance or, if a dual licensee, demonstrate appropriate security measures to deter and prevent the theft of marijuana and to reasonably regulate customer access to the premises, including equipping all entrances and exits with an alarm system;**
 7. **Provide additional exits in accordance with the Building Code or Fire Code; and**
 9. 8. ~~Shall dispose~~ **Dispose** of ~~medical~~ **medical** marijuana remnants and by-products in accordance with State and local regulations.

E. A Marijuana Dispensary shall not have a drive-through service or an outdoor seating area for dispensary customers. An outdoor seating area for employees shall be designed in a manner that prohibits access and use by dispensary customers.

~~E. Medical marijuana infusion facilities shall only be permitted within a medical marijuana dispensary or at a medical marijuana off-site cultivation location.~~

F. A ~~medical marijuana dispensary or medical marijuana dispensary off-site cultivation location~~ **Marijuana Establishment** shall meet the following minimum separations, measured in a straight line from the boundary of the lot or parcel containing the ~~medical marijuana dispensary or medical marijuana dispensary off-site cultivation location~~ use to the property boundary of the lot or parcel containing any of the existing uses listed below:

1. Two thousand feet from ~~any other medical marijuana dispensary, medical marijuana dispensary off-site cultivation location, or medical marijuana infusion facility~~ **another Marijuana Establishment;**
2. Five hundred feet from a ~~licensed~~-residential substance abuse treatment facility or other residential drug or alcohol rehabilitation facility **licensed by the State of Arizona;**
3. Five hundred feet from a community college, university, or from any public, private, parochial, charter, dramatic, dancing, music learning ~~center~~ **center**, or other similar school or educational facility that caters to children;
4. Five hundred feet from a daycare home or daycare center;
5. Five hundred feet from a public library or public park; and
6. Five hundred feet from a facility devoted to family recreation or entertainment.

~~G. A medical marijuana off-site cultivation location not associated with a medical marijuana dispensary located in Flagstaff is prohibited.~~

~~H. Medical marijuana cultivation may occur within a medical marijuana dispensary.~~

~~I. Medical Marijuana Qualifying Patient Cultivation Location. A qualifying patient may cultivate at their place of residence within the Flagstaff City limits subject to compliance with A.R.S. § 36-2804.02, i.e., a qualifying patient may not cultivate medical marijuana at their place of residence if there is a medical marijuana dispensary located within 25 miles of the qualifying patient's home.~~

~~J. Medical Marijuana Designated Caregiver Cultivation Location.~~

1. ~~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 of 250 square feet maximum, including any storage areas.~~
2. ~~A designated caregiver may cultivate at their residence for a single qualifying patient subject to compliance with A.R.S. § 36-2806.01.~~
3. ~~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.~~

Section 5. Amend Title 10 FLAGSTAFF ZONING CODE, Division 10-80.20: Definition of Specialized Terms, Phrases, and Building Functions, Section 10-80.20.130 Definitions “M”, to modify Medical Marijuana, Medical Marijuana Dispensary, Medical Marijuana Dispensary Cultivation Location and Medical Marijuana Infusion Facility, and incorporate Marijuana Cultivation and Manufacturing Standalone Location, and Marijuana Testing Facility in alphabetical order, as follows:

10-80.20.130 Definitions “M”

~~Medical Marijuana: All parts of the genus Cannabis whether growing or not, and the seed 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.—~~

Marijuana: Means Marijuana and Marijuana Concentrate prescribed in A.R.S. §36-2850, as amended.

~~Medical Marijuana Dispensary: A nonprofit medical or dual licensee (as defined in ARS §36-2850, as amended) marijuana dispensary registered and certified pursuant to A.R.S. § 36-2804 that may also include a medical marijuana infusion facility,~~ certified by the State of Arizona to sell marijuana and marijuana products to consumers, which may include the cultivation, manufacturing, processing, packaging, or storage of marijuana products as an accessory use to the dispensary.

~~Medical Marijuana Dispensary Off-Site Cultivation Location: The one additional location, if any, where marijuana may be cultivated for the use of a medical marijuana dispensary as disclosed pursuant to A.R.S. § 36-2804.~~

Marijuana Establishment: Means any of following: Marijuana Dispensary, Marijuana Off-Site Cultivation Location, Marijuana Off-site Manufacturing Location, and Marijuana Testing Facility.

~~Medical Marijuana Infusion Facility: A facility that incorporates medical marijuana by means of cooking, blending, or incorporation into consumable/edible goods.~~

Marijuana Off-Site Cultivation Location: A location used by an entity certified by the State of Arizona to cultivate, manufacture, package, process, and store marijuana and marijuana products, excluding the sale or transfer of marijuana and marijuana products to consumers.

Marijuana Off-site Manufacturing Location: A location used by an entity certified by the State of Arizona to manufacture, package, process, and store marijuana and marijuana products, excluding the sale or transfer of marijuana and marijuana products to consumers.

Marijuana Testing Facility: Means Marijuana Testing Facility prescribed in A.R.S. §36-2850, as amended.