

RESOLUTION NO. 2011-03

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE TOWN CLERK AND ENTITLED THE "TOWN OF FOUNTAIN HILLS MEDICAL MARIJUANA REGULATIONS."

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS as follows:

SECTION 1. That certain document entitled the "Town of Fountain Hills Medical Marijuana Regulations" of which three copies are on file in the office of the Town Clerk and open for public inspection during normal business hours, is hereby declared to be a public record, and said copies are ordered to remain on file with the Town Clerk.

PASSED AND ADOPTED BY the Mayor and Council of the Town of Fountain Hills, Arizona, January 6, 2011.

FOR THE TOWN OF FOUNTAIN HILLS:

ATTESTED TO:



Jay T. Schlum, Mayor



Bevelyn J. Bender, Town Clerk

REVIEWED BY:

APPROVED AS TO FORM:



Richard L. Davis, Town Manager



Andrew J. McGuire, Town Attorney

**TOWN OF FOUNTAIN HILLS
MEDICAL MARIJUANA
REGULATIONS**

CHAPTER 24 MEDICAL MARIJUANA USES

Sections:

24.01 Definitions

24.02 Location Restrictions

24.03 Requirements

Section 24.01 Definitions

“Medical marijuana” means “marijuana” for “medical use” as those terms are defined in ARIZ. REV. STAT. § 36-2801.

“Medical marijuana dispensary” means a nonprofit medical marijuana dispensary (as defined in ARIZ. REV. STAT. § 36-2801) duly registered and certified pursuant to ARIZ. REV. STAT. § 36-2804.

“Medical marijuana cultivation location” means any of the following: (A) a medical marijuana dispensary at which cultivation occurs for sale at that medical marijuana dispensary, (B) the one additional location, if any, duly identified pursuant to ARIZ. REV. STAT. § 36-2806(E) during the process of registering a medical marijuana dispensary, where marijuana will be cultivated for sale at a medical marijuana dispensary, (C) any location identified pursuant to ARIZ. REV. STAT. § 36-2804.02(A)(3)(f) for cultivation of medical marijuana by a designated caregiver or qualifying patient (as defined in ARIZ. REV. STAT. § 36-2801, as amended) for a qualifying patient’s medical use or (D) a facility that incorporates or processes medical marijuana into a consumable or edible product.

Section 24.02 Location Restrictions

- A. Medical marijuana dispensaries or medical marijuana cultivation locations are prohibited from being established, operated or licensed in any Town of Fountain Hills zoning district other than C-3.
- B. Medical marijuana dispensaries and medical marijuana cultivation locations shall meet the following minimum separation requirements, measured in a straight line from the closest boundary of the parcel containing the medical marijuana dispensary or medical marijuana cultivation location to the closest property boundary of the parcel containing any existing uses listed below:
 - 1. 2,000 feet from any other medical marijuana dispensary or medical marijuana cultivation location.
 - 2. 2,000 feet from a residential substance abuse diagnostic and treatment facility or other residential drug or alcohol rehabilitation facility.

3. 2,000 feet from a public, private, parochial, charter, dramatic, dancing or music school, a learning center, or other similar school or educational or entertainment facility that caters to children.
 4. 2,000 feet from a childcare center or registered residential child care facility.
 5. 1,000 feet from a public library.
 6. 1,000 feet from a park.
 7. 500 feet from a church or place of worship.
- C. A medical marijuana cultivation location not associated with an Arizona medical marijuana dispensary is prohibited, and only one medical marijuana cultivation location shall be permitted for the single Arizona medical marijuana dispensary with which it is associated.
- D. The following size limitations shall apply to any medical marijuana dispensary:
1. The total maximum floor area of a medical marijuana dispensary shall not exceed 2,500 square feet.
 2. The secure storage area for the medical marijuana stored at the medical marijuana dispensary shall not exceed 500 square feet of the total 2,500 square foot maximum floor area of a medical marijuana dispensary.
- E. The following size limitations shall apply to any medical marijuana cultivation location associated with a medical marijuana dispensary:
1. The total maximum floor area of a medical marijuana cultivation location shall not exceed 3,000 square feet.
 2. The secure storage area for the medical marijuana stored at the medical marijuana cultivation location shall not exceed 1,000 square feet of the 3,000 square feet total maximum floor area of a medical marijuana cultivation location.
 3. For a medical marijuana dispensary that also is a medical marijuana cultivation location, the total maximum floor area that may also be used for cultivation and incorporation or processing of the medical marijuana into consumable or edible products inclusive of any secure storage area, shall not exceed 3,000 square feet. The secure storage area for the medical marijuana stored at a medical marijuana dispensary that also is a cultivation location shall not exceed 1,500 square feet.
- F. The following size limitations shall apply to any medical marijuana cultivation location associated with a qualified patient or designated caregiver:

1. All conditions and restrictions for medical marijuana 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.
2. More than one designated caregiver may not co-locate cultivation locations.

Section 24.03 Requirements

The following minimum requirements shall apply to all “medical marijuana dispensary” and “medical marijuana cultivation location” uses located in the zoning district where such uses are permitted:

- A. In addition to any other application requirements, an applicant for any medical marijuana dispensary or medical marijuana cultivation location shall provide 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 cultivation location.
 2. The legal name of the medical marijuana dispensary or medical marijuana cultivation location.
 3. If the application is for a medical marijuana cultivation location, the name and location of the medical marijuana dispensary with which it is associated or, in the case of designated caregivers or qualifying patients, the names of the qualifying patients for which the medical marijuana is being cultivated.
 4. The name, address and birth date of each officer and board member of the nonprofit medical marijuana dispensary agent.
 5. The name, address, birth date and valid registry identification card number of (a) each medical marijuana dispensary agent if the application is related to a medical marijuana dispensary or a related medical marijuana cultivation location and (b) each designated caregiver and qualifying patient if the application is related to a medical marijuana cultivation location associated with such qualifying patient and designated caregiver.
 6. A copy of the operating procedures adopted in compliance with ARIZ. REV. STAT. § 36-2804(B)(1)(c).
 7. A notarized certification that none of the medical marijuana dispensary officers or board members has been convicted of any of the following offenses:
 - a. A violent crime, as defined in ARIZ. REV. STAT. § 13-901.03(B), that was classified as a felony in the jurisdiction where the person was convicted.

7. Display a current Town of Fountain Hills business license and a State of Arizona tax identification number.
8. Install lighting to illuminate the exterior and interior of the building and all entrances and exits to the facility. Exterior lighting shall be five foot candles, measured at ground level, and shall remain on during all hours between sunset and sunrise each day. Twenty-four (24) hours each day, the medical marijuana dispensary or medical marijuana cultivation location shall illuminate the entire interior of the building, with particular emphasis on the locations of any counter, safe, storage area and any location where people are prone to congregate. The lighting must be of sufficient brightness to ensure that the interior is readily visible from the exterior of the building from a distance of one hundred (100) feet.
9. Provide security guards at the main entrances and exits during all hours of operation. For the purposes of this Chapter, “security guard” shall mean licensed and duly bonded security personnel registered pursuant to ARIZ. REV. STAT. § 32-2601 *et seq.* Prior to opening for business, the medical marijuana dispensary or medical marijuana cultivation location shall provide all property owners within a 500 foot radius of the medical marijuana dispensary or medical marijuana cultivation location with written modification via first class U.S. Mail of the security company responsible for providing its security services.
10. If determined necessary by the Town Manager at any time, medical marijuana dispensaries or medical marijuana cultivation locations shall provide a neighborhood security guard patrol for a five hundred foot radius surrounding the medical marijuana dispensary during all or specified hours of operation.
11. Have an exterior appearance compatible with commercial structures already constructed or under construction within the immediate neighborhood to insure against blight, deterioration, or substantial diminishment or impairment of property values in the vicinity.
12. Allow unrestricted access by Town code enforcement officers, Maricopa County Sheriff’s Department Deputies or other agents or employees of the Town requesting admission for the purpose of determining compliance with these standards.
13. Not display signs, or any other advertising matter used in connection with the medical marijuana dispensary or medical marijuana cultivation of any offensive nature and such signs shall in no way be contrary to the Town code, or obstruct the view of the interior of the premises viewed from the outside.
14. Comply with all other applicable property development and design standards of the Town of Fountain Hills.

- D. To ensure that the operations of medical marijuana dispensaries are in compliance with Arizona law and to mitigate the adverse secondary effects from operations of dispensaries, medical marijuana dispensaries shall operate in compliance with the following standards:
1. No doctor shall issue a written certification on-site for medical marijuana.
 2. There shall be no on-site sales of alcohol, tobacco or food, and no on-site consumption of food, alcohol, tobacco or medical marijuana.
 3. Medical marijuana dispensaries shall only dispense medical marijuana to qualified patients and their designated caregivers as defined in ARIZ. REV. STAT. § 36-2801 *et seq.*
 4. Medical marijuana dispensaries shall notify patrons of the following verbally and through posting of a sign in a conspicuous location at the medical marijuana dispensary:
 - a. Use of medical marijuana shall be limited to the patient identified on the doctor's written certification. Secondary sale, barter or distribution of medical marijuana is a crime and can lead to arrest.
 - b. Patrons must immediately leave the site and not consume medical marijuana until at home or in an equivalent private location. Medical marijuana dispensary staff shall monitor the site and vicinity to ensure compliance.
 5. Medical marijuana dispensaries shall not provide marijuana to any individual in an amount not consistent with personal medical use or in violation of state law and regulations related to medical marijuana use.
 6. Medical marijuana dispensaries shall not store more than two hundred dollars (\$200.00) in cash overnight on the premises.
 7. Any qualified patient under eighteen (18) years of age shall be accompanied by a parent or legal guardian. Except for such parent or legal guardian, no persons other than qualified patients and designated caregivers shall be permitted within a medical marijuana dispensary premises.
 8. Medical marijuana dispensaries shall provide law enforcement and all interested neighbors with the name and phone number of an on-site community relations staff person to notify if there are operational problems with the establishment.