

Text written in **BOLD ALL CAPS** indicates new language. ~~Strikethrough~~ fonts indicate proposed language to be deleted.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA AMENDING SECTIONS 11-1-6, 11-4-2, 11-4-4, 11-5-2, 11-5-5, 11-6-5, 11-7-2, AND 11-13-2 OF THE MESA CITY CODE PERTAINING TO THE PERMITTED LOCATIONS OF MEDICAL MARIJUANA DISPENSARIES, ON AND OFF-SITE FACILITIES FOR THE CULTIVATION OF MEDICAL MARIJUANA, AND INFUSION FACILITIES FOR THE PRODUCTION OF MEDICAL MARIJUANA PRODUCTS DISTRIBUTED THROUGH MEDICAL MARIJUANA DISPENSARIES, AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

WHEREAS, on November 2, 2010, the voters of the state of Arizona approved Proposition 203 (I-04-2010), the “Arizona Medical Marijuana Act” (AMMA), codified in the in Arizona Revised Statutes, Title 36, A.R.S. § 36-2801 et seq.; and

WHEREAS, AMMA provides for the medical use, possession and cultivation of marijuana; and

WHEREAS, pursuant to federal law, it is illegal to possess, use and manufacture or distribute marijuana in any form as well as other controlled substance; and

WHEREAS, the City of Mesa zoning ordinance currently does not permit the use of marijuana for any purpose; and

WHEREAS, AMMA allows municipalities to enact reasonable zoning restrictions that limit the use of land for registered dispensaries to specific areas and

WHEREAS, City held a hearing of the Planning and Zoning Board on November 17, 2010 to discuss issues and receive comments, issues and concerns related to the operation of medical marijuana dispensaries and medical marijuana cultivation facilities in the City, and made several recommendations contained herein for consideration by the City Council; and

WHEREAS, the Planning and Zoning Board found there could be secondary adverse impacts from medical marijuana dispensaries, cultivation and infusion facilities including but not limited to the increase in crimes such as loitering, burglary and robbery in the areas immediately surrounding the dispensaries, cultivation sites and infusion facilities; and

WHEREAS, the Planning and Zoning Board determined that further regulations are needed to protect the public, health, safety and welfare of the residents and children from the secondary adverse impacts; and

WHEREAS, the City Council has determined that, for the reasons set forth above and for the purpose of protecting the public health, safety and welfare of the residents and visitors of Mesa, it is in the best interests of the City to amend the City Zoning Ordinance as provided herein.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESA as follows:

Section 1: That Section 11-1-6 of the Mesa City Code is hereby amended to include the following terms and definitions, as written below, inserted in alphabetical order of the term as appropriate; with the language for the existing terms and definitions of this Section remaining intact and as presently stated.

MEDICAL MARIJUANA: MEANS OF 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,AS APPROVED BY DHS, OR SYMPTOMS ASSOCIATED WITH THE PATIENT’S DEBILITATING MEDICAL CONDITION.

MEDICAL MARIJUANA CULTIVATION (“CULTIVATION”): MEANS THE PROCESS BY WHICH A MARIJUANA (*CANNABIS SPP.*) PLANT IS GROWN.

MEDICAL MARIJUANA CULTIVATION FACILITY (“CULTIVATION FACILITY”) SHALL MEAN A BUILDING, STRUCTURE OR PREMISES USED FOR THE GROWING OR STORAGE OF MEDICAL MARIJUANA AND REGISTERED WITH DHS AS RELATED TO A DISPENSARY.

MEDICAL MARIJUANA DESIGNATED CAREGIVER (“DESIGNATED CAREGIVER”): SHALL MEAN A PERSON WHO MEETS THE DEFINITION OF A.R.S 36-2801(5) AND HOLDS AND POSSESSES A VALID DESIGNATED CAREGIVER REGISTRY IDENTIFICATION CARD, ISSUED BY DHS, IDENTIFYING THAT PERSON AS AN INDIVIDUAL PROVIDING CARE AND ASSISTANCE TO A MEDICAL MARIJUANA QUALIFYING PATIENT OR PATIENTS, AND HAS AGREED TO ASSIST A MEDICAL MARIJUANA QUALIFYING PATIENT OR PATIENTS WITH THAT PATIENT’S OR PATIENTS’MEDICAL USE OF MARIJUANA.

MEDICAL MARIJUANA DISPENSARY (“DISPENSARY”): AN ENTITY REGISTERED, CERTIFIED AND AUTHORIZED BY DHS AS A “NONPROFIT MEDICAL MARIJUANA DISPENSARY” THAT ACQUIRES, POSSESSES, SELLS, DISTRIBUTES, DISPENSES, OR OTHERWISE PROVIDES MEDICAL MARIJUANA TO QUALIFYING PATIENTS AND DESIGNATED CAREGIVERS. SUCH DISPENSARIES MAY INCLUDE ON-SITE CULTIVATION AND INFUSION FACILITIES.

MEDICAL MARIJUANA INFUSION FACILITY (“INFUSION FACILITY”): A FACILITY THAT INCORPORATES MEDICAL MARIJUANA (*CANNABIS SPP.*) BY THE MEANS OF COOKING, BLENDING, OR INCORPORATION INTO CONSUMABLE/EDIBLE OR TRANSDERMAL GOODS.

MEDICAL MARIJUANA QUALIFYING PATIENT (“QUALIFYING PATIENT”): MEANS A PERSON WHO HAS BEEN ISSUED, HOLDS AND POSSESSES A VALID REGISTRY IDENTIFICATION CARD ISSUED BY DHS AUTHORIZING THEM TO USE MEDICAL MARIJUANA TO TREAT OR ALLEVIATE A DEBILITATING MEDICAL CONDITION OR SYMPTOM APPROVED BY DHS...

Section 2: That Sub-section 11-4-2(A) of the Mesa City Code is hereby amended as follows:

11-4-2: PERMITTED USES:

(A) Permitted Uses in all Single Residence Districts: R1-90, R1-43, R1-35, R1-15, R1-9, R1-7, R1-6:

1. One (1) single dwelling unit on any lot or parcel.
2. Foster homes and residential facilities for the developmentally disabled.
3. Schools and churches. Refer to Section 11-13-2(L) of this Ordinance.
4. Group homes for the handicapped and adult care homes. Refer to Section 11-13-2(Q) of this Ordinance.
5. Day care group homes with up to five (5) children. Refer to Section 11-13-2(O) of this Ordinance.
6. Public utility buildings and facilities when necessary for serving the surrounding territory, provided that no public business offices and no repair or storage facilities are maintained therein.
7. Publicly owned recreational uses and community buildings.
8. Accessory uses and accessory buildings when associated with a dwelling unit or other primary permitted use.
9. Temporary sales offices and/or model homes pertaining to the sale of homes being constructed in the immediate subdivision are permitted in all residential zoning districts, subject to a Use Permit.
 - (a) Approval of such sales offices and/or model homes may be granted for a three- (3) year period or until all homes in the subdivision are completed, whichever occurs first. Extensions to the three- (3) year time limit may be granted if the property owner can demonstrate that the need for the temporary sales offices and/or model homes continues to exist.
 - (b) The carport or garage of a model home may be used as a temporary sales office provided temporary off-street parking is available. Such carport or garage must be returned to a condition suitable for the parking of automobiles in accordance with Section 11-16-2 of this Ordinance prior to the sale or residential occupancy of such model home.
10. **MEDICAL MARIJUANA CULTIVATION AS AN ACCESSORY USE, AND ONLY IN THE EVENT ONE OF THE RESIDENTS OF THAT SITE IS A QUALIFYING PATIENT, AND/OR DESIGNATED CAREGIVER, AND HOLDS AND POSSESSES A VALID DHS IDENTIFICATION CARD AUTHORIZING THE RESIDENT(S) TO CULTIVATE MEDICAL MARIJUANA AND THE ACCESSORY USE CULTIVATION FACILITY IS A MINIMUM OF 25 MILES FROM THE NEAREST MEDICAL MARIJUANA DISPENSARY. REFER TO SECTION 11-13-2(W) FOR ADDITIONAL REQUIREMENTS.**

Section 3: That Section 11-4-4 of the Mesa City Code is hereby amended as follows:

11-4-4: PROHIBITED USES IN ALL SINGLE RESIDENCE DISTRICTS: R1-90, R1-43, R1-35, R1-15, R1-9, R1-7, R1-6:

- (A) All commercial and business uses, except those specifically permitted in Sections 11-4-2 and 11-4-3 of this Ordinance.
- (B) All manufacturing, warehousing, and wholesaling.

- (C) Multiple residence.
- (D) Manufactured homes, except as permitted in the R1-6 district and as specified in the Manufactured Home/Recreational Vehicle chapter of this Ordinance.
- (E) Recreational vehicle parks and manufactured home parks.
- (F) The keeping or storage of any commercial vehicle having a gross vehicle weight rating (GVWR) exceeding thirteen thousand (13,000) pounds or having dual rear wheels exceeding seventeen inches (17") in diameter.
- (G) **MEDICAL MARIJUANA DISPENSARY**
- (H) **MEDICAL MARIJUANA CULTIVATION FACILITY AS A PRIMARY USE.**
- ~~(G)~~ (I) Uses similar to those listed above in this Section as determined by the Zoning Administrator.

Section 4: Sub-Section 11-5-2(A) of the Mesa City Code is hereby amended as follows:

11-5-2: PERMITTED USES:

- (A) Permitted Uses in all Multiple Residence Districts: R-2, R-3, and R-4:
 1. Single and multiple residences.
 2. Boarding houses and group homes for the handicapped with up to five (5) guest rooms or housing up to ten (10) people.
 3. Foster homes, group foster homes, and residential facilities for the developmentally disabled.
 4. Bed and breakfast establishments.
 5. Schools and churches. Refer to Section 11-13-2(L) of this Ordinance.
 6. Public utility buildings and facilities when necessary for serving the surrounding territory, provided that no public business offices and no repair or storage facilities are maintained therein.
 7. Publicly owned and operated parks, playgrounds, and community buildings and other recreational uses.
 8. Accessory uses and buildings when associated with a dwelling unit or other primary permitted use.
 9. Day care centers and day care group homes.
 10. Temporary sales offices and/or model homes pertaining to the sale of homes being constructed in the immediate subdivision are permitted in all residential zoning districts, subject to a Use Permit.
 - (a) Approval of such sales offices and/or model homes may be granted for a three- (3) year period or until all homes in the subdivision are completed, whichever occurs first. Extensions to the

three- (3) year time limit may be granted if the property owner can demonstrate that the need for the temporary sales offices and/or model homes continues to exist.

- (b)The carport or garage of a model home may be used as a temporary sales office provided temporary off-street parking is available. Such carport or garage must be returned to a condition suitable for the parking of automobiles in accordance with Section 11-16-2 of this Ordinance prior to the sale or residential occupancy of such model home.

11. MEDICAL MARIJUANA CULTIVATION AS AN ACCESSORY USE, AND ONLY IN THE EVENT ONE OF THE RESIDENTS OF THAT SITE IS A QUALIFYING PATIENT, AND/OR DESIGNATED CAREGIVER, AND HOLDS AND POSSESSES A VALID DHS IDENTIFICATION CARD AUTHORIZING THE RESIDENT(S) TO CULTIVATE MEDICAL MARIJUANA AND THE ACCESSORY USE CULTIVATION FACILITY IS A MINIMUM OF 25 MILES FROM THE NEAREST MEDICAL MARIJUANA DISPENSARY. REFER TO SECTION 11-13-2(W) FOR ADDITIONAL REQUIREMENTS.

Section 5: Section 11-5-5 of the Mesa City Code is hereby amended as follows:

11-5-5: PROHIBITED USES IN ALL MULTIPLE RESIDENCE DISTRICTS:

- (A) All commercial and business uses, except those specifically permitted in Sections 11-5-2 and 11-5-3 of this Ordinance.
- (B) All manufacturing, warehousing, and wholesaling.
- (C) The keeping or storage of any commercial vehicle having a gross vehicle weight rating (GVWR) exceeding thirteen thousand (13,000) pounds or having dual rear wheels exceeding seventeen inches (17") in diameter.
- (D) **MEDICAL MARIJUANA DISPENSARIES**
- (E) **MEDICAL MARIJUANA CULTIVATION FACILITIES AS A PRIMARY USE.**
- (~~F~~) Uses similar to those listed above in this Section.

Section 6: That Sub-section 11-6-5 of the Mesa City Code is hereby amended as follows:

11-6-5: PROHIBITED USES IN ALL COMMERCIAL DISTRICTS:

- (A) All industrial and manufacturing uses.
- (B) All storage, warehousing, and wholesaling, except as specified in the C-2 and C-3 districts.
- (C) All residential uses, except as specified in Section 11-6-4 of this Ordinance.
- (D) **MEDICAL MARIJUANA DISPENSARY**
- (E) **MEDICAL MARIJUANA CULTIVATION FACILITY AS A PRIMARY USE.**

(DF) Uses similar to those listed above in this Section as determined by the Zoning Administrator.

Section 5: That Sub-section 11-7-2(B) of the Mesa City Code is hereby amended as follows:

11-7-2: PERMITTED USES:

(B) Additional Permitted Uses in Manufacturing and Industrial Districts M-1 and M-2:

1. Outdoor storage, display, and activities accessory to any permitted use.
2. All uses permitted in the O-S, C-1, C-2, and C-3 districts, under the least restrictive condition as they apply to such districts provided:
 - (a) No individual retail store shall exceed an area of ten thousand (10,000) square feet.
 - (b) No group commercial development shall exceed an aggregate area of fifty thousand (50,000) square feet.
3. A dwelling unit in conjunction with a primary use intended for occupancy by the proprietor, caretaker, or night-watchman of the primary use. Refer to Uniform Building Code for occupancy separation regulations.
4. Industrial trade schools, such as welding or metal fabrication, and similar industrial arts.
5. Animal hospitals, clinics, and boarding kennels.
6. Crematories.
7. Heavy equipment repair, sales, and rentals.
8. Any warehousing, manufacturing, packaging, distributing, bottling, or processing use, provided that such use shall conform to all of the following requirements:
 - (a) All outside storage of material or equipment as ancillary to the primary use shall be confined to the rear one-half (1/2) of the lot.
 - (b) All activities pertaining to the actual manufacture or processing of the product involved shall be conducted entirely within the enclosed building.
9. Construction yards.
10. Automobile, truck, recreational vehicle, motorcycle, boat, mobile home, and trailer sales and rental facilities and appurtenant buildings, without the area limitations specified in Section 11-7-2(B)2 of this Ordinance (above).
11. Commercial recreational entertainment uses such as pool and dance halls, nightclubs, bars, cocktail lounges, and similar uses.
12. **MEDICAL MARIJUANA DISPENSARY, SUBJECT TO COMPLIANCE WITH ALL REQUIREMENTS OF SECTION 11-13-2(W).**
13. **MEDICAL MARIJUANA CULTIVATION FACILITY, SUBJECT TO COMPLIANCE WITH ALL REQUIREMENTS OF SECTION 11-13-2(W).**
14. **MEDICAL MARIJUANA INFUSION FACILITY, SUBJECT TO COMPLIANCE WITH ALL REQUIREMENTS OF SECTION 11-13-2(W).**

Section 6: That Section 11-13-2 of the Mesa City Code is hereby amended by the addition of Sub-section (W):

11-13-2: ADDITIONAL PROVISIONS AND EXCEPTIONS:

(W) MEDICAL MARIJUANA DISPENSARY, CULTIVATION FACILITIES AND INFUSION FACILITIES:

1. MEDICAL MARIJUANA DISPENSARIES (DISPENSARIES) ARE PERMITTED ONLY IN THE M-1 AND M-2 DISTRICTS, PROVIDED EVIDENCE HAS BEEN DEMONSTRATED OF COMPLIANCE WITH ALL OF THE FOLLOWING:

A. REGISTRATION OF THE LOCATION OF THE DISPENSARY AND THE ASSOCIATED CULTIVATION FACILITY WITH THE PLANNING DIVISION, IN ACCORDANCE WITH THE REQUIREMENTS OF ITEM 5, BELOW.

B. THE DISPENSARY SHALL BE LOCATED A MINIMUM DISTANCE OF 5280- FEET (1-MILE) FROM THE NEXT NEAREST MEDICAL MARIJUANA DISPENSARY, INCLUDING DISPENSARIES LOCATED IN NEIGHBORING JURISDICTIONS AND COUNTY PROPERTIES.

C. THE DISPENSARY SHALL BE LOCATED A MINIMUM DISTANCE OF 2400- FEET FROM THE FOLLOWING LAND USES, INCLUDING THE LISTED LAND USES WHEN LOCATED IN NEIGHBORING JURISDICTIONS AND COUNTY PROPERTIES:

I. RESIDENTIAL SUBSTANCE ABUSE FACILITIES;

II. ALCOHOL REHABILITATION FACILITIES;

III. CORRECTIONAL TRANSITIONAL HOUSING FACILITIES; AND

IV. OFF-SITE MEDICAL MARIJUANA CULTIVATION FACILITIES (EXCEPT THE DISPENSARY SPECIFICALLY ASSOCIATED WITH THE OFF-SITE CULTIVATION FACILITY).

D. THE DISPENSARY SHALL BE LOCATED A MINIMUM DISTANCE OF 1200- FEET FROM THE FOLLOWING LAND USES, INCLUDING THE LISTED LAND USES WHEN LOCATED IN NEIGHBORING JURISDICTIONS AND COUNTY PROPERTIES:

I. CHURCHES;

II. LIBRARIES;

III. SCHOOLS (LIMITED TO KINDERGARTEN THROUGH 12TH GRADE); AND

III. PUBLIC PARKS LOCATED IN M-1 AND M-2 ZONING DISTRICTS;

E. THE DISPENSARY SHALL BE LOCATED A MINIMUM DISTANCE OF 500- FEET FROM THE FOLLOWING LAND USES, INCLUDING THE LISTED LAND USES WHEN LOCATED IN NEIGHBORING JURISDICTIONS AND COUNTY PROPERTIES:

I. PUBLIC PARKS LOCATED IN ALL RESIDENTIAL, ALL COMMERCIAL, PF AND PEP ZONING DISTRICTS;

II. PRIVATELY-OWNED DESIGNATED AND MAINTAINED OPEN SPACE RECREATIONAL AREAS; AND

II. DAY CARE CENTERS AND PRE-SCHOOLS

F. THE DISPENSARY SHALL BE NO LARGER THAN 2500 SQUARE FEET, OF WHICH NO MORE THAN 500 SQUARE FEET SHALL BE USED FOR STORAGE

OF PRODUCT.

- G. THE DISPENSARY SHALL BE HOUSED IN A PERMANENT BUILDING.**
 - H. A MINIMUM OF 25% OF THE GROSS FLOOR AREA (GFA) OF THE DISPENSARY SHALL BE SET ASIDE FOR USE AS AN INTERIOR CUSTOMER WAITING AREA.**
 - I. THE DISPENSARY SHALL NOT INCLUDE:**
 - I. A DRIVE THROUGH WINDOW;**
 - II. OUTDOOR SEATING;**
 - III. OUTDOOR VENDING MACHINES; AND**
 - IV. TEMPORARY, PORTABLE, OR SELF-POWERED MOBILE FACILITIES.**
 - J. THE DISPENSARY SHALL NOT OFFER DIRECT OR HOME DELIVERY SERVICE.**
 - K. THE TIME THE DISPENSARY MAY BE OPEN TO THE PUBLIC SHALL BE LIMITED TO THE HOURS BETWEEN 8:00 AM AND 9:00 PM OF THE SAME CALENDAR DAY.**
- 2. MEDICAL MARIJUANA CULTIVATION FACILITIES (“CULTIVATION FACILITY(IES)”) AND MEDICAL MARIJUANA INFUSION FACILITIES (“INFUSION FACILITIES”) AS DEFINED BY THIS ORDINANCE, ARE PERMITTED ONLY IN THE M-1 AND M-2 DISTRICTS, SUBJECT TO COMPLIANCE WITH ALL OF THE FOLLOWING:**
- A. REGISTRATION OF THE LOCATION OF THE CULTIVATION AND/OR INFUSION FACILITY WITH THE PLANNING DIVISION, IN CONFORMANCE WITH THE REQUIREMENTS OF ITEM 5, BELOW**
 - B. THE LOCATION OF THE CULTIVATION FACILITY SHALL BE A MINIMUM DISTANCE OF 2400 FEET FROM THE NEXT NEAREST MEDICAL MARIJUANA DISPENSARY OR CULTIVATION FACILITY, INCLUDING DISPENSARIES LOCATED IN NEIGHBORING JURISDICTIONS AND COUNTY PROPERTIES. THIS SEPARATION DISTANCE DOES NOT APPLY TO THE DISTANCE BETWEEN THE CULTIVATION FACILITY AND THE SPECIFIC DISPENSARY SERVED BY THE CULTIVATION FACILITY.**
 - C. THE LOCATION OF THE CULTIVATION FACILITY SHALL BE A MINIMUM DISTANCE OF 1200 FEET FROM THE FOLLOWING LAND USES, INCLUDING THE LISTED LAND USES LOCATED IN NEIGHBORING JURISDICTIONS AND COUNTY PROPERTIES:**
 - I. CHURCHES;**
 - II. LIBRARIES;**
 - III. PUBLIC PARKS OR PRIVATELY-OWNED AND MAINTAINED OPEN SPACE AREAS; AND**
 - IV. SCHOOLS (LIMITED TO KINDERGARTEN THROUGH 12TH GRADE).**
 - D. THE MAXIMUM FLOOR AREA OF A CULTIVATION FACILITY SHALL BE LIMITED TO 25,000 SQUARE FEET.**
 - E. THE MAXIMUM FLOOR AREA OF AN INFUSION FACILITY SHALL BE LIMITED TO 10,000 SQUARE FEET.**

- E. CULTIVATION FACILITIES SHALL BE HOUSED IN PERMANENT BUILDINGS.**
- 3. DESIGNATED CAREGIVER CULTIVATION IS PERMITTED AS AN ACCESSORY USE IN ALL RESIDENCE DISTRICTS, SUBJECT TO COMPLIANCE WITH ALL OF THE FOLLOWING:**
- A. THE CULTIVATION FACILITY SHALL BE LOCATED A MINIMUM DISTANCE OF 25-MILES FROM THE NEXT CLOSEST MEDICAL MARIJUANA DISPENSARY. THIS 25-MILE SEPARATION DISTANCE INCLUDES THOSE DISPENSARIES THAT ARE LOCATED IN NEIGHBORING JURISDICTIONS INCLUDING COUNTY PROPERTIES.**
 - B. THE CULTIVATION ACTIVITY SHALL BE HOUSED IN A PERMANENT BUILDING.**
 - C. THE CULTIVATION ACTIVITY SHALL BE LIMITED TO A MAXIMUM FLOOR AREA OF 250 SQUARE FEET, INCLUDING STORAGE AREAS.**
 - D. THE LOCATION (INCLUDING THE CORRECT ADDRESS) OF THE CULTIVATION SHALL BE REGISTERED WITH THE PLANNING DIVISION, IN ACCORDANCE WITH ITEM 5, BELOW.**
 - E. THE DESIGNATED CAREGIVER CULTIVATING MEDICAL MARIJUANA SHALL BE IN POSSESSION OF A VALID DHS DESIGNATED CAREGIVER CARD WITH THE AUTHORIZATION TO CULTIVATE MEDICAL MARIJUANA.**
- 4. QUALIFIED PATIENT CULTIVATION IS PERMITTED AS AN ACCESSORY USE IN ALL RESIDENCE DISTRICTS, SUBJECT TO COMPLIANCE WITH ALL OF THE FOLLOWING:**
- A. THE CULTIVATION FACILITY SHALL BE LOCATED A MINIMUM DISTANCE OF 25-MILES FROM THE NEXT CLOSEST MEDICAL MARIJUANA DISPENSARY. THIS 25-MILE SEPARATION DISTANCE INCLUDES THOSE DISPENSARIES THAT ARE LOCATED IN NEIGHBORING JURISDICTIONS INCLUDING COUNTY PROPERTIES.**
 - B. THE CULTIVATION ACTIVITY SHALL BE HOUSED IN A PERMANENT BUILDING.**
 - C. THE CULTIVATION ACTIVITY SHALL BE LIMITED TO A MAXIMUM FLOOR AREA OF 250 SQUARE FEET, INCLUDING STORAGE AREAS.**
 - D. THE LOCATION (ADDRESS) OF THE CULTIVATION ACTIVITY SHALL BE REGISTERED WITH THE PLANNING DIVISION, IN ACCORDANCE WITH ITEM 5, BELOW.**
 - E. AT LEAST ONE RESIDENT OF THE PROPERTY ASSOCIATED WITH THE CULTIVATION ACTIVITY SHALL HOLD AND POSSESS A VALID DHS ISSUED REGISTRY IDENTIFICATION CARD WHICH AUTHORIZES THE QUALIFYING PATIENT TO CULTIVATE MEDICAL MARIJUANA.**
- 5. ALL MEDICAL MARIJUANA DISPENSARIES, CULTIVATION FACILITIES AND INFUSION FACILITIES, INCLUDING ALL ACCESSORY CULTIVATION FACILITIES, SHALL REGISTER THE LOCATION OF THE FACILITY (AND ASSOCIATED OFF-SITE FACILITY, IF APPLICABLE) WITH THE PLANNING DIVISION. SUCH REGISTRATION SHALL BE VALID FOR A PERIOD OF ONE (1) YEAR FROM THE DATE OF REGISTRATION, AND MAY BE RENEWED ONLY IN THE EVENT DHS ALSO RENEWS THE DISPENSARY REGISTRATION AND CERTIFICATION. IF DHS DENIES, FAILS TO RENEW, OR REVOKES THE ISSUANCE OF A DISPENSARY REGISTRATION AND**

CERTIFICATION, THE PLANNING DIVISION REGISTRATION OF THE LOCATION OF THE DISPENSARY AND ASSOCIATED CULTIVATION AND/OR INFUSION FACILITIES SHALL EXPIRE IMMEDIATELY. SUCH REGISTRATION WITH THE PLANNING DIVISION SHALL PROVIDE THE FOLLOWING INFORMATION:

- A. NAME, MAILING ADDRESS, TELEPHONE NUMBER AND E-MAIL ADDRESS OF THE INDIVIDUAL OR NON-PROFIT ORGANIZATION OPERATING THE FACILITY. IF A NON-PROFIT ORGANIZATION REGISTERS THE FACILITY LOCATION, INFORMATION PERTAINING TO CONTACTING THE INDIVIDUAL RESPONSIBLE FOR MANAGING THE FACILITY SHALL ALSO BE PROVIDED.**
 - B. A WRITTEN NARRATIVE DESCRIBING HOW THE LOCATION AND IMPROVEMENTS ASSOCIATED WITH THE REGISTERED FACILITY COMPLY WITH THE REQUIREMENTS OF THIS ORDINANCE.**
 - C. IF APPLICABLE, THE SUBMITTAL OF THE NAME(S) AND LOCATION(S) OF THE OFFSITE MEDICAL MARIJUANA CULTIVATION FACILITY ASSOCIATED WITH THE DISPENSARY OPERATION.**
 - D. APPLICABLE ONLY TO DISPENSARIES, A COPY OF THE OPERATING PROCEDURES ADOPTED IN COMPLIANCE WITH A.R.S. §36-2804(B)(1)(C), INCLUDING RECORD KEEPING AND SECURITY MEASURES.**
- 6. ANY COMBINATION OF MEDICAL MARIJUANA DISPENSARY, CULTIVATION FACILITY AND/OR INFUSION FACILITY MAY OCCUR AT A SINGLE LOCATION, PROVIDED:**
- A. THE COMBINED FACILITY COMPLIES WITH ALL REQUIREMENTS OF THIS SUBSECTION.**
 - B. THE MAXIMUM FLOOR AREA ASSOCIATED WITH THE COMBINED ACTIVITY SHALL NOT EXCEED IN AGGREGATE THE MAXIMUMS SPECIFIED BY ITEMS 1F, 2D AND 2E FOR THE SPECIFIC INDIVIDUAL USES BEING COMBINED,**
 - C. THE FLOOR AREA SPECIFICALLY ASSIGNED TO INDIVIDUAL DISPENSARY, CULTIVATION AND/OR INFUSION ACTIVITIES WITHIN THE COMBINED FACILITY DOES NOT EXCEED THE MAXIMUMS SPECIFIED BY ITEMS 1F, 2D AND 2E OF THIS SUBSECTION FOR EACH INDIVIDUAL LAND USE.**

Section 7: SEVERABILITY

If any section, subsection, sentence clause, phrase or portion of this Ordinance or any part of the material adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of a Court of competent jurisdiction such decision shall not affect the validity of the remaining portions thereof.

Section 8: PENALTY.

CIVIL PENALTIES:

Upon finding that a person is responsible for a civil violation of this Title, the Civil Hearing Officer shall impose a civil sanction of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for each violation. In determining the appropriate sanction the Civil Hearing Officer may assess against

the responsible party the City's personnel, mailing, and other costs incurred in investigating and hearing the case, not to exceed a maximum of five hundred dollars (\$500.00).

EACH DAY SEPARATE VIOLATION:

Each day in which a violation of this Title continues, or the failure to perform any act or duty required by this Title or by the Civil Hearing Officer continues, shall constitute a separate civil offense.

HABITUAL OFFENDER:

- A. A person who commits a violation of this Title after previously having been found responsible for committing three (3) or more civil violations of this Title within a twenty-four (24) month period – whether by admission, by payment of the fine, by default, or by judgment after hearing - shall be guilty of a criminal misdemeanor. The Mesa City Prosecutor is authorized to file a criminal misdemeanor complaint in the Mesa City Court against habitual offenders. For purposes of calculating the twenty-four (24) month period under this Subsection, the dates of the commission of the offenses are the determining factor.
- B. Upon conviction of a violation of this Subsection, the Court may impose a sentence of incarceration not to exceed six (6) months in jail; or a fine not to exceed two thousand five hundred dollars (\$2,500.00), exclusive of penalty assessments prescribed by law; or both such fine and imprisonment. The Court shall order a person who has been convicted of a violation of this Section to pay a fine of not less than five hundred dollars (\$500.00) for each count upon which a conviction has been obtained. A judge shall not grant probation to or suspend any part or all of the imposition or execution of a sentence required by this Subsection except on the condition that the person pay the mandatory minimum fines as provided in this paragraph.
- C. Every action or proceeding under this Section shall be commenced and prosecuted in accordance with the laws of the State of Arizona relating to criminal misdemeanors and the Arizona Rules of Criminal Procedure.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, this 7th day of February, 2011.

APPROVED:

Mayor 

ATTEST:

City Clerk 



EFFECTIVE DATE: